

so dead, who does not recall with pride, and a certain elation of the heart, the remarkable and heroic achievements of women—aye, poor, ignorant illiterate women—on the field of *non-violent* battle called Satyagraha, and ever on that more sanguinary field of battle, of blood and iron, of fire and steel. The hand that rocks the cradle has shown itself strong enough to wield the sword and gentle enough when necessary to raise itself in benediction against the aggressor. Leaving aside other lands and other climes, in our own India, we all know how women, along with men, though quite ignorant of modern warfare and though quite uninured to the *lathi*, the bullet and the prison, how they have flocked in thousands to the banner of Mahatma Gandhi and Netaji Subhas Chandra Bose. This story is too well known, for me to recount at any length. It is in this context of fast developing social and economic change that we have to view the measure that has been brought before the House. For, no law can function or can be made in a vacuum and no law can be divorced or viewed apart from the social milieu in which it has had its birth. In short, this age can be summed up in the facetious remark of a wag who said that today, women sit in Parliament and stand in buses. This in a nutshell, is the revolutionary change that has overtaken the present age, Sir, I feel that I am more or less a political Parivrajaka परिव्राजक and I set forth a few observation on this Bill.

I am glad that my honourable friends in this House who are not immediately affected by this measure have taken such great interest in this Bill. My honourable friend, the redoubtable Pandit Naziruddin— I feel, Sir, that the title is not entirely unreserved. If, Sir, Mountbatten could be called a “Pandit” on the 15th August 1947, I feel that Mr. Naziruddin has a greater claim to be called a “Pandit” than Lord Mountbatten of Burma. Many such friends have been taking an interest in this measure and I welcome it as a happy sign of the times and a good augury for the future, for thus we are going in the right way of being one unified society, and ere long we will have one uniform civil code for the whole of our country.

Those Members, within and without the House who are not wholly in favour of the Bill and who do not want to go the whole-hog in this regard, take their stand at least some of them—on the *Smritis*, the *Shastras* and our Dharma. Well, Sir, what is Dharma ? Unless we decide that question we cannot appreciate or reject the stand that some people in this country are taking with regard to this measure. Dharma ! Is it merely a code of ritual and externals and ceremonies,

or is it something deeper, that pertains to the soul, the heart, the mind and the spirit ? Dharma !The etymology of this word in Sanskrit is— Dharma is that by which the world is supported, *yenedam dharyate jagat*. That by which the world—”Jagat”—is supported is Dharma.

Now are we not to ask whether the observance of a few ceremonies, rituals, and formal conventions constitute Dharma, or whether it is something deeper ?

As regards the *Smritis* which are interlinked or interlocked with Dharma, my honourable friend Dr. Ambedkar said the other day that there are perhaps 137 *Smritis*. If I am wrong he will correct me. I believe he has counted them. Of the *Upanishads* it is stated there are 108 and so many other unknown and unearthed *Upanishads*. There may also be many more *Smritis* unknown and unearthed. Of the *Smritis* known to Dr. Ambedkar there are 137. And now we have got the 138th *Smritis*. He will pardon me if I refer to this, not in a light-hearted fashion, because this is also a measure, which although not revolutionary, has introduced changes in our Hindu social relations. So I can apply the same term as has been applied to the other Hindu social codes and social texts that have been already written for us. This we may call the 138th *Smriti*. I may call it the Bhim *Smriti*. I hope Dr. Ambedkar will pardon me if I refer to this as the Bhim *Smriti*. If I have got to include the name of the other protagonist of the movement, which has culminated in the drafting and the presentation of this Bill, I would refer to it as the Narasimha. It is the Rau Committee which has led to this Bill. Ultimately I will not refer to it as the Bhim *Smriti* but the Bhim Narasimha *Smriti*.

Coming to the measure before us : though the *Smritis* are well-known, still they differ among themselves. The same *Smritikara* at times differs in different texts of the *Smriti*. It is very well known that even a poet is not consistent in his poetry. Shakespeare referred to women in one play as “Frailty, thy name is woman” : in other play he goes on to describe a woman who was strong enough to inflict wounds in her own thigh : I mean Portia of Brutus ! Coming to our own country, the great poet and philosopher, Tulsidas has said: *dhor ganwar Shudra aru nari yah sab tadana ke adhikari*. For the benefit of my friends who do not know Hindi, it means that a rustic, an illiterate man, an animal, a shudra and a woman—these all deserve a beating.

Shri Raj Bahadur (United States of Matsya): I would inform the House that the interpretation put by Mr. Kamath upon this well known couplet is absolutely incorrect.

Shri H. V. Kamath : I hope my friend will give us his interpretation when he has to speak.

Shri Raja Bahadur: It means that a Shudra who is like a *Dhol* or is uncivil and a “*nari*” (i.e. woman) who is like a *pashu* (beast) deserve admonition. It means that *Dhol*, (hollow) Shudra *pasu*, (beastly woman) deserve chastisement.

Shri H. V. Kamath : But our law-giver Manu says : *yatra naryastu pujoyante ramante tatra devatah*.

It means that where women are respected, there the gods are happy.

Leaving aside the various *Smritis* and the *Shastras*, what does our own—the greatest *Shashtra* to the Hindu—says? At the time when the *Gita* was preached by Srikrishna to Arjuna, there were so many customs among the Hindus which were derogatory to certain sections of the people that Srikrishna categorically told Arjuna in one of the well known texts on the highest goal of any human being :

Mr. Chairman : The honourable member can continue his speech on Monday.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 28th February, 1949.

***HINDU MARRIAGES VALIDITY BILL**

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

Pandit Thakur Das Bhargava (East Punjab : General): I move:

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be extended upto the 25th March, 1949.”

The date given here on the order paper is 11th March, but with your permission I would like to amend it to 25th March as the honourable the Law Minister will be out of Delhi and he will not be able to devote much time to it. Therefore I move the motion with this amendment.

I want to say that I am very anxious that this Bill may be put before this House this session and therefore I request the honourable the Law Minister and the authorities in charge of this Bill to kindly see that the Select Committee makes its Report by the 25th March. I also beg the House to supplement my request to the authorities so that, as the Bill is a very important one, it may be passed this session.

Shri R. K. Sidhva (C. P. and Berar : General): The matter is entirely in the hands of the Select Committee. What has the House to do in this ? My honourable Friend should request the Select Committee to expedite the Report and I think they will be pleased to do it.

Pandit Thakur Das Bhargava : I want an extension of the date. I want to urge that it is my anxiety that the Law Minister should see that the report is made in time and the House should support me in this.

Mr. Chairman : The question is :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide that marriages between Hindus, Sikhs, Jains and their different castes and sub-castes are valid, be extended upto the 25th March, 1949.”

The motion was adopted.

* HINDU CODE—*contd.*

Mr. Chairman : The House will now proceed with the further consideration of the Hindu Code.

†**Shri H. V. Kamath** (C. P. and Berar : General): Mr. Chairman, when this House adjourned on Friday afternoon the name of Shri Krishna was on my lips. I was saying that even so far as the highest goal of human existence is concerned man and woman have been placed on an absolute footing of equality by Shri Krishna in the *Gita*. The *Gita* to the Hindus is the sacred *smriti*, the supreme *shastra*, the

* C.A. (Leg.) D., Vol. II, Part II, 28th February 1949, pp. 940-56

†*Ibid*, pp. 941-50.

quintessence of all philosophy and all religion. In that, very well-known verse, Shri Krishna says—

“Streeyo vaishyastatha sudrastepi yanti paramgatim.”

Women, Vaishyas and the Shudras who were apparently the down trodden and the suppressed classes or castes of that age, even they— Krishna says—are on a par, on a footing of equality, with Brahmana and the others.

Shri L. Krishnaswami Bharati (Madras : General): You are right, Mr. Kamath.

Shri H. V. Kamath : So far as *moksha* and the *paragati* are concerned, there is absolutely no bar to the attainment of the same by women. I am sorry that at the present day there are some men, and even certain *swamis*—so called religious or spiritual heads—who believe that man and woman should be placed on an unequal footing. I agree that they are not identical in all respects.....

Maulana Hasrat Mohani (U. P.: General): How are they equal ?

Shri H. V. Kamath : But to say that they are unequal and to buttress that argument by fantastic reasons is to my mind shocking. The other day I had the good-luck—or the ill-luck—of listening to a *swami* saying that man and woman are unequal. And, pray, what were the reasons for that statement ? He said fantastic, the House will agree—he said that man grows a moustache and woman does not. I am not joking, Sir, many of my friends were present at the meeting which the *swami* addressed, and he said it in all earnestness, in all seriousness, that man grows a moustache, woman cannot grow a moustache, and the woman at most can bear three, four or five children in a year.

An Honourable Member: In a year?

Shri H. V. Kamath : Depending upon whether she produces triplets, quadruplets or quintuplets. Sir, he went on to say that man, however is potentially capable of being the father of a hundred or more children. This, Sir, to my mind is a fantastic argument.

When we talk of equality of man and woman, we regard that on a spiritual basis which has been envisaged again by Shri Krishna in the Gita. He says:

“Sarvabhutasthamatmanam sarvabhutani chatmani”

That is the basis, that is the yardstick, that is the measuring rod for equality of human beings or between man and woman.

“Yo mam pashyati sarvatra

sarvam cha mayi pashyati.”

This is the test, this is the criterion, this is the standard, this is the yardstick for equality of human beings, whether high or low, rich or poor, man or woman.

Well, Sir, I do not subscribe to that notion of inequality propounded by the *Swami*. On the other hand, I also do not believe that woman—as some of them do today—attain equality with men by taking to smoking and drinking. That again, Sir, is something which is to be deprecated if by that they seek equality with man. Nor do I subscribe to the progressive conception of woman—progressive in the Western sense—who, perhaps in imitation of the West and so trying to be progressive, take to ball-room dancing and other Western habits. This, Sir, is also to my mind no way of securing equality with man.

Shrimati Purnima Banerjee (U. P.: General): It is not included in the Hindu Code. Does she dance alone without a partner?

Shri H. V. Kumuth : I know that but we are talking of the equality of man and woman. And here, Sir, our great savant and philosopher, Dr. Sarvapalli Radhakrishnan who is an authority on Hindu *dharma* and Hindu way of life, says :

“The modern woman, if I may say so, is losing her self-respect. She does not respect her own individuality and uniqueness, but is paying an unconscious tribute to man by trying to imitate him. She is fast becoming masculine and mechanical.

Shri R. K. Sidhva (C. P. and Derar: General): What about the modern man ?

Shri H. V. Kamath : I hope, Sir, our women will take this to heart and will not undertake such attempts at equality with man.

Shreemati Annie Masearene (Travancore State): May I ask the question whether modern man is in any way better than that ?

Shri H. V. Kamath : That is for women to answer.

Well, Sir, when I therefore talk of equality between men and women I have before me the historical examples of Sita, Savitri, Damayanti, Gargi, Maitreyi and Ubhayabharati. Will you permit me to read from our own ancient history about these women and the place these women occupied in our ancient Vedic times and even later, on which so many of our opponents to the Hindu Code depend today ? It is said that in the Vedic and Upanishadic age, women occupied a very high place in society. Among the exceptional women of Upanishadic times the name of Maitreyi stands out in bold relief. The lustre of her spiritual mind illumines the world even today. For sheer intellectual acumen two women stand out in singular brilliance. An All-India religious

conference took place—it has been the tradition in this country to have conferences of all sorts and religious conferences were not an exception—an all-India religious conference took place in the prehistoric age and another in the post-Buddhistic age. They had been summoned not for mere academic debate but for the establishment of principles that should govern the spiritual life of the nation. The former was championed by the sage Yagnavalkya, the same as our law-giver and the latter by the great Shankaraeharya. The first conference, Yagnavalkya's conference, was convened by King Janaka, the great Janaka, the *karma yogi*, when the sages assembled from all quarters of India, from Kashmir to Kanya Kumari and I suppose from Kliyber to Chcrapunji, are silenced, Gargi boldly rises on behalf of the women, championing the cause of the humiliated. That, Sir, is the ideal towards which our women ought to be progressing and which they will, I hope, attain. Ere long, Gargi is defeated, but only after putting up a tough fight.

In a second Conference, Sankara Acharya's conference, the task of presiding over this momentous meeting falls upon Mandanamishra's wife, Ubhayabharati. Now, it is very important—and I would like my women friends to mark this—that in the history of the world there is not a single instance of a woman being chosen as a judge of an important meeting and making such an exceptional demand on her intellectual ability as well as integrity. She gives—Ubhaya Bharathi—gives the verdict in favour of Shankaracharya. (*Honourable Members: Hear, hear,.*) With the result that her husband becomes a monk and a disciple of his opponent, whose view henceforward becomes acknowledged as the paramount creed of the country. “In fact”, the author says—I am reading from the “Cultural Heritage of India” “published by the Ramakrishna Mission”—“It is not the original authors”—mark these words ‘it is not the original authors’—“with the emancipated mind of creative thinkers but the mechanically minded commentators”—Tikakars, not the *smritikars*, but those who wrote *tikas*—“who worked for the suppression of the rights of women, whom they bluntly assumed to be in league with ignorance and illusion.”

Now, Sir, many of our friends who are opposing this measure,—I do not mean in the House but those who are outside—they take their stand on Dharma. The other day I posed this question, “What is Dharma?”. One of the pamphlets issued by the Anti-Hindu Code Committee presumes to give us some advice, and what is that ? They

quote the old *sloke*—I do not remember exactly where it occurs— but the Panchatantra quotes it:

“*Nasasabha Yatra na Santi Vriddhah,*
vriddhnateye na vadanti dharmam.”

‘That is not a Sabha or Assembly where there are no vridhahs.’

An Honourable Member : But we have so many of them here !

Shri H. V. Kamath : That man is not a *vriddhah* who does not talk of Dharma. I, Sir, am sorry that our friends of this Anti-Hindu Code Committee have not exactly understood the meaning of “*vriddhah*”—who is a vridhah and who is not. In the Mahabharata there is a story : Saraswata Muni, a young boy of twelve, when there was famine in the country and all the old rishis who were fasting and doing penance on the shores of the Saraswati river tied for fear of their lives—they wanted to save their lives—this young boy at that time stuck to his post and his mother Saraswati, that is why Saraswati fed him on fish in the morning, fish at noon and fish at night—that is why Saraswat Brahmins even today eat fish. This Brahmin boy, inspite of the famine, stuck to his post. The story goes on to say that the famine raged for many years in the land—twelve years—but our young boy, Saraswat Muni—the progenitor of all Saraswats in the world—continued to stay. After the famine was over, the *rishis* who had fled for their lives started coming back in driblets, one after another, to the shores of the Saraswati river to resume their *tapasya* interrupted by the famine and they tried to boss over this young boy of 24. He was 12 when the famine started, and he was 24 when the famine ended. They started bossing over him. They said, “You sit at our feet; take instruction from us; learn from us; become our disciple.” He said, “Fie on you. Shame on you pretend to be *munis*, *rishis*, *tapasvis*, and you fly for your lives ; fly for fear of death. You have got to sit at my feet and learn from me.” Thus said the young man of 24 to those old men of 70 and 80. The Mahabharata goes on to say:

“*Na tena vridho bhavati yenasya palitam shirah*
yo vai yuvapyadhyastam devah sthaviram viduh.”

(A man is not a *vridha* merely by virtue of his grey hair. Even a youth who has studied well is called a wise man by the gods.) That man is *vriddhah* who has attained *vriddhi* Actually the word “*vriddhah*” is wrongly translated as old. It means that man who has

attained *vridhhi*, you call it, wisdom, growth, development—that is *vridhi*.....
Here our friends say:

“Na sa sabha yatra na santi vriddhah—

Vriddha na te ye na vadanti dharmam “

I think that even in that sense of “*vridhhi*” or wisdom, there are a number of my friends here who will live up to that standard. But my friends have stopped short of quoting the whole *shloka*. They start by saying :

“Na sa sabha yatra na santi vridhah

Vriddha na te ye na vadanti dharmam.”

But what is Dharam ? The sloka goes on to say later on what is *Dharma*. These fellows conveniently omit that portion of the sloka. The sloka goes on to say:

“ Dharmah sa na yatra na satyamasti “

That is not *Dharma* where there is no *satya*. Therefore, my quarrel with those who take their stand on *dharm* is that they have not understood what is Hindu *Dharma*.

I will again crave your indulgence to tell the House what our great savant and philosopher, Dr. Sarvapalli Radhakrishnan has to say on the subject, especially Hindu *Dharma*. He tells us:

“There has been no such thing as a uniform stationary, unalterable Hinduism whether in point of belief or practice. Hinduism is a movement; not a position ; a process, not a result; a growing tradition, not a fixed revelation. Its past history encourages us to believe that it will be found equal to any emergency that the future may throw up. whether on the field of thought or of history.....”

We are happy that today the prediction is coming true. It was Swami Vivekananda who said fifty years ago that Vedanta will become the religion of humanity—the vedanta which has been given to the world by our seers, *rishis* and *munis* Radhakrishnan goes on to say:

“We are beginning to look upon our ancient faith with fresh eyes. We feel that our society is in a condition of unstable equilibrium. There is much wood that is dead and diseased that has to be cleared away.

I hope, Sir, that most of our friends here are in their own way leaders of Hindu thought and practice, I am sure of that —

“Leaders of Hindu thought and practice are convinced that the times require, not a surrender of the basic principles of Hinduism, but a restatement of them with special reference to the needs of a more complex and morbid social order.

“Such an attempt”, he says, “will only be the repetition of a process which has occurred a number of times in the history of Hinduism. The work of readjustment is in process. Growth is slow when roots

are deep. But those who light a little candle in the darkness will help to make the whole sky aflame.”

I would commend this statement of the Hindu *Dharma* to those of my friends who oppose the Bill, even the consideration of the Bill on grounds of *Dharma*. Who does not know and who does not recollect that this cry of ‘*Dharma* in danger’ or ‘Society in danger’ was raised by those that wanted to block every reform of Society attempted in the past ? Is it not a fact that twenty-five years ago, when the movement against *asprisliyata* untouchability was started, some of our men, even high-class orthodox Hindus said that Hinduism was in danger, social order was in danger and that disruption of society was coming ? Yet, did we not persist in that much-needed reform ? Did we not help to accelerate the evolution of Hindu society on an egalitarian basis ? As a culmination of these attempts, have not we adopted an Article in the draft Constitution prohibiting untouchability and banning it in any shape or form ? If we could do that in spite of what the orthodox *pandits* claim for Hindu *Dharma* surely I do not see any reason why we should not proceed to legislate or provide for the regulation of social relations and personal law.

Again, Sir, honourable Members will recollect the opposition that was started against the Sarda Act, which tabooed child-marriage, on the ground that Hindu *Dharma* was in danger and that Hindu religion and Hindu society were in danger. In the last century when the custom of *sati*, cremation of the widow with her husband, was sought to be abolished, these same reactionaries who block the road to progress denounced the attempt stating that the Hindu-Dharma sanctioned *sati* and that it granted the highest salvation to women and therefore it should be continued. In spite of their agitation and obstruction, much-needed reforms like that were put through.

Pandit Thakur Das Bhargava said the other day that this Bill had not reached the rural population and that the rustics, the people in rural areas have not seen or read or considered it. He expressed anxiety to know their reactions to the Bill, before it was proceeded with in this House. When he said so, he forgot the fact that some of the Bills he himself had introduced had not been seen by the peasants of his own Hissar. I wonder if on his advice we are going to circulate copies of our Bills to every village and hamlet and homestead in the country.

Shri Mahavir Tyagi (U. P.: General): Peasants do not count these days.

Shri H. V. Kamath : I am astonished to hear from Mr. Tyagi that peasants do not count in these days. If they do not count, who does ?

Honourable Members: You.

Shri H. V. Kamath : I am indeed grateful for the compliment. I hope, Sir, in the near future, not merely I, but all my friends in the House will count equally with me.

Sir, while I have every sympathy with certain observations made by Pandit Thakurdas Bhargava, I do not think that his opposition to the Hindu Code Bill on the ground that there has been no circulation or proper publication among the people affected, can stand scrutiny. That argument is absolutely untenable. In that way, every Bill sought to be passed here, which affects the lives of millions, would have to be sent to them, in order that they may register their approval or disapproval of the same.

Now, Sir, this vexed question of equality, I hope, I have disposed of in a satisfactory manner. Sir, men and women are equal on a spiritual basis. The Gita, the Smritis and Shri Krishna himself have preached this doctrine of equality.

Coming, Sir to the question of property, property has been, according to most philosophers, political, social or otherwise, the root of almost all evil in the world. In this regard I subscribe to the proposition made by Seth Govind Das—he is not in the House now—that it would be best if private property were abolished. Even litigation will decrease a good deal if this is done. One of our greatest law-givers and statesmen of ancient times—not Manu or Yagnyavalkya—but a warrior statesman, Bheeshma Pitamaha has expounded his doctrine in two *parvas* of *Maha-Bharata*, viz., *Shanti Parva* and *Anusasanika Parva*. There he tells Yudhisthira about property: *akinchanasya shuddhasya na tulyamihia lakshyaye akinchanyamcha rajyamcha tulaya samatolayam atyarichyaia daridryam rajyadapi guradhikam nityodvignohi dhanavan mrityorasyagato yatha*. He tells Yudhisthira that his kingdom and voluntary poverty he has weighed in the balance. He says that this *akinchanya* voluntary poverty has proved more than the other. Because, he said, *nityo nilyodvignohi dhanavan mrityorasyagato yatha*. The nearest equivalent to this in English is “Uneasy lies the head that wears the crown”. If a man has property he is afraid of death.

I am in agreement with Pandit Thakur Das Bhargava when he says that a wife and husband should become one not merely in love, but in property as well. Sometimes it happens that love is their only

property. Husband and wife may have no property at all. Their only property may be their mutual love. But, Sir, we should face the stark reality of life today. It was, however, refreshing to hear Pandit Bhargava's personal experience in this respect. This world would be a happier place to live in, if men and women, husbands and wives are in the same happy position as Pandit Thakur Das Bhargava and his wife are. There are, however, hundreds of cases today where the relations between the wife and husband are not as happy as they should be, or as we wish them to be. (*Interruption*) I am speaking, Sir, from facts narrated to me by friends like my honourable friend. Mr. B. Das and I have come in possession of these facts, as told to me by my honourable friends, who have got experience in this direction.

Our Hindu Code Bill provides in this respect that a woman should be entitled to an absolute right in her property. In the Vedic ages and in the ancient ages, upon which our opponents of Dharma and the Hindu Code Bill take their stand, it was only in medieval times, when Hinduism was on the decline that women's rights to property came to be restricted—in the Vedic period the social position of women was generally high.

Mr. Chairman : There are a number of speakers, who want to speak. I appeal to the honourable Member kindly to be as short as possible.

Shri H. V. Kamath : I will try to be short, but I am afraid, the subject is so vast that it is difficult to be short.

The Honourable B. R. Ambedkar (Minister of Law): There will be plenty of occasion for Mr. Kamath to speak. There are at least 130 sections.

Shri H. V. Kamath : But I do not want to let some things remain unsaid today. Now in the Vedic period, I was saying that the social position of the women was high. An unmarried daughter was offered a share in her father's property, and the married daughter was given no interest therein, but she got ample dowry at the time of her marriage. So the argument advanced by my honourable friend, Pandit Thakur Das Bhargava, in this respect, I think, may be considered by the House and by the Honourable Minister sympathetically ; because fundamentally being opposed to property myself, I do not think that any purpose would be gained by making the property position worse than it is today. Dr. Ambedkar referred to an instance of the property of a Hindu family consisting of 12 sons and one daughter. That is very well for

him to quote that instance, but may I quote the other instance where there are 12 daughters and one son. What will happen if the Hindu Code Bill as it stands is applied in this case ? The family property will have to be divided among all the daughters and one son. The son will be left in a little corner of the house, and if the daughters get married, they have got the right to bring their husbands and they have the right to dispose of the portion of the House to a stranger. Therefore the one little son like a little mouse will creep here and there and he would not have even a comfortable cosy corner to live in.

Therefore, Sir, this question of property is a very vexed question and we might consider whether a daughter instead of getting the property herself, whether she might not be allowed an equivalent share of the property in cash or jewellery, or whatever she might choose to have, as it was done in ancient times and in Vedic times. There was no property share at the time of marriage but she was given ample dowry in lieu of the share of the property.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock.

Mr. Chairman (Shri S. V. Krishnamoorthy Rao) in the Chair.

Mr. Chairman : Before we begin the debate, I would like to make a suggestion. There are about 25 names on the list. This is a very important measure and as many speakers as possible would like to give their views on the Code. Therefore, I would request honourable Members to be as brief as possible and refer only to the relevant points for or against the Bill.

Babu Ramnarayan Singh (Bihar: General): Sir, my name also may be included in the list.

Shri B. Das (Orissa : General): I did not know that I had to send in my name; I thought I would catch the eye of the Speaker.

Mr. Chairman : That is why I am telling honourable members to be as brief as possible and refer only to the salient points for or against the Bill. Members who want to speak may kindly send chits.

Mr. Tajamul Husain (Bihar : Muslim): May I know, Sir, whether my name is in the list ? I spoke to the Deputy Speaker yesterday on Friday last.

Mr. Chairman : No harm in sending a fresh slip.

Shri H. V. Kamath : Sir, before I resume the thread of my little speech, I may assure you that I shall take much less lime than my honourable friend, Pandit Thakur Das Bhargava did.

Mr. Chairman : You have already taken an hour.

Shri H. V. Kamath : I said less lime than my honourable friend Pandit Thakur Das Bhargava.

I was speaking about property: the basis for the allotment of property, was the principle which was expressed by Kanwa after he bade farewell to Shakuntala. Kanwa said:

“Artho hi kanya parakiya eva tamadya sampreshya parigrahituh jato mamayam visliadah prakamam pratyarpiaryasa ivantaratmo.”

The first line, “Artho hi kanya” does not mean, as has been literally translated, that a girl is somebody else’s property. It means that a girl separates herself from the father’s home when she gets married. It was on this basis that she goes into another household that in olden times. Vedic and later times, that a daughter was given no interest in the property, but ample dowry was given. Again, in the Vedic and later Smriti times, only when a father had no son, he appointed his daughter as the Putrika and such a daughter was equal to the son. This principle can very well be considered by our new law makers. They may try to incorporate the gist of this principle in the Code.

I wish agricultural property were completely excluded as it has been already excluded so far as the Governors’ provinces are concerned. I refer to Part VII Chapter I. Section 94 says: “This Part shall not apply to agricultural land in Governors’ Provinces;” Already, there is a cry against the fragmentation of land. We may hasten slowly in this regard so that this may not lead to further aggravation of this evil. As a matter of fact, if the entire land is nationalised, then no difficulty will arise; so long as this question is hanging fire and is not finally settled, we may decide to exclude agricultural land not merely in the Governors’ provinces, but also in the Centrally administered areas from the operation of this Part.

Now, I come to the great question which has agitated humanity from the dawn of time: I mean that of marriage and divorce. On this question, the principle that we should go by, that should be accepted in legislating on this subject must be, to my mind, “Marriage should be easy, but divorce difficult.” I think if this sound rule were adopted for law making, it would solve many of our troubles.

Sardar Bhopinder Singh Man (East Punjab : Sikh): In your case, marriage is more difficult than divorce.

Shri H. V. Kamath : There are always exceptions to a rule ; I suppose I am one of them.

If I may be allowed to quote a recent historic instance, der Feuhrer Herr Hitler in Germany, when he fought the election in 1932, one of his election slogans was, “a job for every German man and a husband for every German woman”. This slogan brought him, I understand, millions of women’s votes, when he promised a husband for every German woman. This proves to the hilt the principle that I have sought to place before you that marriage should be easy and divorce difficult. My honourable Friend Pandit Thakur Das Bhargava, the other day, while speaking on this subject retered to this and said that there are usages and customs in various parts of the country according to which divorce could be effected. There is even this simplest custom, I am told, according to which the man says ‘Talak’ three times and the wife is divorced. It may be that or some such custom ; I do not know; that is why I said, I am told. I personally think that divorce should not be easy. One of the modern States, Soviet Russia, at its inception in the early twenties of this century, made marriage as well as divorce equally easy. But, by experience they have learnt that family as a social unit has got to be preserved and strengthened even in a communist State and therefore now, though marriage is easy, divorce is next to impossible. I therefore think, however much I am inclined to agree with Pandit Thakur Das Bhargava that certain usages and customs must be given currency and must be kept alive, as regards divorce, I think that the procedure adopted must be very difficult, so that, the family as a social unit may be strengthend and preserved.

There is one more observation that I would like to make on this subject. There are instances, Sir, where due to certain causes, a dissolution of marriage may not be quite desirable or may not even be agreed to by one of the spouses : by the husband or by the wife. In such cases, where the wife agrees that the husband may marry another wife, herself also living in the same or another house. I do not see any reason why, in spite of the reasons mentioned here, permission should not be granted to either of the spouses to marry when the other consents, without dissolution of marriage. In Delhi, we are aware of one notability who has got several wives living at the same time, though perhaps in different houses.

An Honourable Member : Who is that ?

Shri H. V. Kamath : No names here please.

Mr. Tajamul Husain : I have not been able to understand ; does my honourable friend agree with polyandry ?

Shri H. V. Kamath : I will only say that

Mr. Tajamul Hussain : Only an unmarried man can say so.

Shri H. V. Kamath : Sometimes, where a couple has been married for a long time, the Hindu mind cannot reconcile itself to the breaking of marriage ties with the wife even though the purpose of marriage is being frustrated. Therefore from the standpoint of love and humanity the new Code should provide, in my mind that on such an occasion a husband can get permission from his wife to marry another wife, and if she consents then the Court should not stand in the way. But the ideal of marriage as has been stated by Pandit Thakurdas Bhargava should be one in property and love. I shall go further and say that there should be two minds with but a single thought, two hearts that beat as one.

Shrimati Hansa Mehta (Bombay: General): In Polygamy there will be more than two hearts.

Shri H. V. Kamath : I am not against polyandry if the husband does not mind it.

Shrimati Purnima Banarjee : Very liberal !

Shri H. V. Kamath : I take my stand on the principle of equality and I go to the extreme limit for both man and woman. It has been a regrettable incident or development of our history—our long and ancient Hindu history—that whatever rights women enjoyed in the early Aryan Age—the Vedic, Upanishad and Smriti age—these rights fell into disuse and were not given effect to in the later medieval age. I hope that this Code will so work that women, whose paradise was lost in the dark medieval age, paradise they will regain in the modern age.

I have received a little warning from a friend outside, telling me in the name of God, in the name of Mahatma Gandhi, the Father of the Nation, in the name of Netaji Subhas Chandra Bose, please do not vote for this Bill. That very argument, I think, very well applies to a vote in favour of the Bill. I can say

Shri B. L. Sondhi (East Punjab: General): Is mat friend male or female ?

Shri H. V. Kamath : I can say, I make bold to say that in the name of God who has created man and woman equal; in the name of the Mahatma, the Father of the Nation, who stood for the complete equality of man and woman; in the name of Netaji Subhas Chandra Bose, who sought and accomplished the complete emancipation of man and woman to the extent of calling women to battle if need be ; in the name of God, in the name of Gandhi, in the name of Subhas, I think this Bill is a forward measure which will lead to the greater glory of Hindu society.

I have only one more remark to make. My honourable Friend, Dr. Ambedkar, said the other day in his peroration that either repair betimes or perish. We have to repair. Indeed we are repairing. I think the time has well-nigh come when, if we do not repair, then society will be rent in twain. A stitch in time will always save nine : otherwise the rent will grow more and more till society will be rent in twain.

I began, Sir, on Friday, the day before *Maha Shivaratri* and I am closing my brief remarks on the day after *Maha Shivaratri*. This day is sacred to the memory of one of the great women of the age—Mahasati Ma Kasturba and it is sacred to the memory of another great man—Swami Dayananda Saraswati. I hope their sprits—the spirits of Ma Kasturba and Swami Dayananda Saraswati—will inspire us in our work and help us in our difficult task. It is my hope and prayer to God that man and woman may travel together as pilgrims of life, dedicating themselves and consecrating their lives to the achievement of *artha* and *kama*, the *artha* and *kama* which are rooted in *Dharma* and which lead to the goal of *moksha*, the liberation from bondage, the goal of the Living God, in whom we live and move and have our being, and in whom all men, all women, all Creation, are equal, free and divine.

हरिओऽम् तत्सत् । ब्रह्मार्पणमस्तु

Mr. Naziruddin Ahmad (West Bengal: Muslim): May I point out that I am getting more and more like an anachronism. 'I have undertaken the task of opposing the original motion but I have not spoken up till now. It may be that the proper time I will be squeezed out. There are too many speakers to come. To-morrow at four o'clock I understand the closure motion will be put.

Mr. Chairman : It is impossible to squeeze out Mr. Naziruddin Ahmad. The honourable Member will have a chance. Mr. Jhunhunwala.

Shri B. P. Jhunhunwala (Bihar : General): I would like to speak at another time.

Shri L. Krishnaswami Bharati : He either speaks now or he does not. According to the rules, if a Member is asked to speak, he must speak; otherwise he loses the chance to speak on the subject.

Mr. Chairman : Babu Ramnarayan Singh.

Babu Ramnarayan Singh : I thank you, Mr. Chairman for the opportunity you have so kindly given me today to do my part to oppose the obnoxious measure which has come on the floor of the House for discussion. Sir, at the outset I must tell the house that I am not an orthodox man.

The Honourable Dr. B. R. Ambedkar : You are not orthodox. I know you are not

***Babu Ramnarayan Singh** : I am one of those who wants that all that is old must be broken without delay. But everything must be done with wisdom. When a thing is to be done, wisdom demands that we should judge when it is to be done and how it is to be done. I tell my honourable Friend Dr. Ambedkar that I am one of his admirers. I feel that he is the pride of the country : he is my pride also. But I do not understand why such a learned man is engaged in such a useless and pernicious job. Sir, this is a government measure. I do not know what they understand by law. Law is nothing but the will of the people expressed in terms of law. I am sorry that the Government does not understand what is law. I say that a majority of the people of this country feel that this measure should not have come on the floor of this House.....

An Honourable Member : No.

Babu Ramnarayan Singh : Take a plebiscite and you will find it.

Shri L. Krishnaswami Bharati : We are here representing them.

Babu Ramnarayan Singh : Apparently it appears that there is a measure called the Hindu Code Bill and a discussion is going on in this House but in fact a conspiracy is being hatched to disrupt the Hindu society. I feel that it is something like a preparation to invade the Hindu society. Nobody can say how long this Hindu Society has lived and flourished in this world. I can say that since the very creation of the world, since the creation of the sun and the moon, since the very creation of the human race the Hindu society has lived and flourished and during all these periods there have been innumerable invasions of all descriptions against this Hindu society, Buddha came

* C.A. (Leg) D., Vol. II, Part II, 28th February 1949, pp. 950-53.

first. At one time it looked that Hindu Society would be no more but the world Guru Sankaracharya came and exported Buddhism from this country and re-established the Hindu society. Then Islam came. That was also an invasion like Buddhism but it was also a military one but I must say that Islam also failed in this country

Dr. Mono Mohan Das (West Bengal): Islam has become the Saviour and you have taken the protection of Islam.

Babu Ramnarayan Singh : Islam could not become the saviour but Islam too failed in this country. According to Islam there is no caste system in the Koran but some sort of caste system developed among those who followed Islam. In the same way Jainism, Sikhism all came in and originally they were all invasions against Hinduism but in course of time they became tolerant and tried to develop and flourish side by side with the Hindu society and religion. This time this is also a sort of invasion but this invasion is a democratic one, though the force behind it, is a dictatorial one.

Some of my friends have already said that there has been a discussion in this House as regards the authority of this house to enact this measure. It is true and I feel confident that this House is not competent to enact a measure of this kind. This is not a Constituent Assembly even

An Honourable Member: What is it ?

Babu Ramanarayan Singh: It is a part of the constituent assembly. A large number of members of this House either by order or by convention have been asked not to attend this Assembly

Shri L. Krishnaswami Bharathi: With that the House is not directly concerned. The Speaker has already said that that is not a matter for the House.

Babu Ramnarayan Singh : Whatever may be the ruling of the Speaker I am not talking against that. I bow to the ruling of the Speaker but I am bound to speak for the world about the competency or authority of this House to enact this measure. The mandate of the country to the Assembly is to frame the constitution of the country. But so long as that constitution is not complete or has not come into force the Government must go on. It was by a hotchpotch agreement with the foreign rulers that this arrangement had been arrived at in order to pass the budget and any other important legislation necessary for the administration of the country. But such a measure like this against

which there is a lot of hue and cry throughout this country should not have come before this House for discussion or enactment.

When I hear in this house as well as outside the cry about the equality of woman with man I fail to understand it

Mr. Tajamul Husain: May I ask the honourable Member why he accepted membership on the Committee when he is opposed to the constitution of this very honourable house.

Babu Ramnarayan Singh : There are many people who are confounded. The measure was sent to the Select Committee. This means that the House accepted the principle of the measure but this does not mean that every member has accepted the measure or accepted the principle of the measure. There are so many principles involved in this measure that so far as the house is concerned nobody can say that it has accepted anything and everything . . .

Shri L. Krishnaswami Bharathi: If it was sent to the Select Committee, it means that it accepts the principle.

Babu Ramnarayan Singh: I was talking about the equality of man and woman. According to our Shastras man is not complete; nor is woman complete. According to our Shastras woman is called Ardhangi and even so man is not complete . . .

An Honourable Member: What is man called ?

Babu Ramnarayan Singh : Man is also half. I may tell you

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, it is impossible to speak in the house when an honourable member addresses it on an important measure like this there are innumerable criticism, and running commentaries, and laughter going on simultaneously. It is not in the interest of the dignity of the House. Members who do not like the speech may at least keep quiet so that those who want to listen may at least listen.

Mr. Chairman : Honourable members will kindly allow the speaker to proceed.

Babu Ramnarayan Singh : Sir, I thank my honourable friend Pandit Maitra for the encouragement he has given me. I was talking about equality. So far as the purposes of the world are concerned and so far as the continuity of the human race is concerned there

3 P M is no question of equality or inequality between man and woman. Nobody can compare the hand with the feet, whether the hand is more useful or the feet are more useful, whether this eye

is more useful or that eye. Man and woman are one and nothing more than one. As regards law I tell my sisters throughout the country that law cannot help them. What can help everybody and also the womenfolk is love and nothing but love. Love between the pair is the only thing which can make the pair happy. Well, they may get the right of divorce. One woman may be divorced today ; other women may be coming for—marriage the next day. Monogamy may mean many-gamy; you won't allow a man to marry a second wife. The first wife will be divorced and he will marry the second day. The third day he will divorce that wife also and on the fourth day he will marry again. The process will continue. So far as pure love is concerned for that I think character of the people is most important. We must realize that in this country the people lost their character first and then anything afterwards. So, whatever we have to do in this matter we have to regain our character. As I say that the importance of hand cannot be compared with the importance of feet, so the importance of man cannot be compared with the importance of woman. I can rather say one thing. According to our *shastra* they are the goddess Lakshmi—Women are called in our society *Lokshmi*, *Saraswati*, *Grihalakshmi*. They are anything and everything. If I may compare man with woman. I can say woman is much more important in the world than man. I can explain this further. If we remove or kill all men from the world the world will still go on. (*An honourable Member*: 'Except one man.') Not even one man. I say if all the men in the world be killed, the world will still continue and the human race will continue. (*Honourable Members*. 'Question'). I can explain it. There are my friends who question my statement. Well, Sir, if you kill all men today there will be millions of men in the womb of the women. Women are therefore certainly more important so far as the world is concerned. But those who talk of equality between man and woman want really to separate woman from man. Instead of helping the pair to be happy they are really destructive. As I say their importance is there; they are the *Lakshmi*. But at the same time it is very difficult to compare man with woman. Nature has created man and woman. Their tasks are different, their duties are different and their functions are different. What is the use of comparing the two? No comparison can really stand in this case.

My friends have talked about the provisions of the Bill. I shall touch only one or two points as regards the daughter's share in the

father's property. First of all I was a son, then a brother, then a husband and then a father and so on. Not without exception, I cannot say, but I say that almost every Hindu father—I am also a Hindu father and I also have married my daughters here and there—every Hindu father is anxious to marry his daughter in a family which is superior in status, in wealth and in many other things to his own family. Now there is a talk of share of the daughter in the father's property. There have been jokes also. The daughter is respected in every way and is also given a share—you may call it a share—in the father's property by way of dowry and so on and so forth. When the question of share comes what will happen is this. Ordinarily if you come to my place as a guest I may show you hospitality as my friend or this and that but if you come by way of right I do not think you will receive any hospitality from me. I tell my friends that law will not help anybody, as soon as the right for the daughter will be created in the father's property I think all question of love will go. My friend Mr. Kamath—although he suggested many things with which I do not agree—said one thing. Here is a family in which a man has got one daughter and two or three sons. The daughter will be married several miles away. The property may be small and after the marriage when the son-in-law, the *damad*, will be coming to his father-in-law's place for share of the property, or as a share-holder, he will not be respected. Everything should develop in a proper manner and in a natural way. If this measure is enacted there may be a lot of complications and litigations and the principle of pure love will be killed in our society.

I, therefore, appeal to every Member in this House to consider the matter in a calm and quiet manner. As it has been suggested from several quarter in the House and as I also said before, this House is not competent to enact the measure. How is it that they are so very anxious that this measure may be passed today? Why have not the courage to wait for a year or two? May I say they are afraid of the new elections?

Shri L. Krishnaswami Bharathi: No; not at all.

Babu Ramnarayan Singh : The Hindu society has lived and flourished so long according to the same customs and same everything else, then, heavens will not fall if we send the measure for circulation as my friend Mr. Naziruddin has stated. I appeal to each and every Member of the House to consider the measure in a calm manner. People may be afraid of the next elections, that we Congress people may

not get votes. That question does not arise. We must be true to ourselves and to the constituency and people who have sent us.

So, I oppose this measure with all the emphasis at my command, and support the motion of my friend 'Pandit' Naziruddin Ahmad that the Bill may be circulated for public opinion.

***Shri H. Siddaveerappa (Mysore State) :** I congratulate the Honourable the Law Minister for the very lucid expression of the speech he gave while moving this Motion. Sir, a lot has been said that this measure vitally affects the Hindu society. I come from a part of this country, namely Mysore, where some of the fundamental things, this measure wants to introduce, are already in force. We have, for instance, got the law of adoption as also the law regarding the daughter's share, and several other things, though they are not on all fours with the present measure. But the principle is there. We have enacted a Bill as early as 1934, called the Hindu Women's Rights Regulation and for the last fourteen years that Bill is law in Mysore, but we have not found there any general upheaval. There is not much litigation nor is there any disruption of the Hindu society as has been feared by some of the honourable Members here. As a matter of fact, by our experience we have come to understand that the measure which is now in force is not of the extent that is needed and another Committee has been formed with a view to see that there is further improvement in the existing measure.

It was said that the measure before the House affects the caste system or some other fundamental beliefs or principles of the Hindu society. Well, Sir, my reading of some of the Hindu literature is that if we study the Vidic period, that is from 2000-1400 B.C., and study the Hindu society then in existence, we do not see any of these four castes in the Hindu society then in existence. Every man born, according to his *gitna* or *karma* had to go through all the *vamas* or *ashramas* in his life time. A boy, until he attained the age of twenty, had to perform the household duties and obey his *guru* and do all the other acts that were assigned to him, and he was called a *shudra*. After the age of twenty he was allowed to be married and he had to take the responsibility of maintaining the family, then, according to the duty that was imposed on him he was called a *vaishya*. After he enjoyed life for some time and after he reached the age of 40 or so, when there was need for every man to defend the State, he had to do the duty of a *kshatriya*. After he attained a particular age, say 60, when

* C.A. (Leg.) D., Vol. II, Part II, 28th February 1949, pp. 953-56.

he had seen so much of life, and on account of his experience and learning, he undertakes the task of teaching the disciples and doing oilier duties of wisdom, and he was called a Brahmana, a man who has got the *guna* of *Brahman*.

Therefore, this caste system in this country originated in a different way, and developed in a different way. But today we understand that there are nearly 13,000 castes and a much larger number of sub-castes which have got different traditions, different customs and what not.

We find today that we are one so far as political unity is concerned. If we want to have any uniform standard of rules or any uniform standard of our laws, it is absolutely essential that there must be some Code which gives a certain standard. May be if necessary at the consideration stage we may consider which of the clauses are necessary and which are not necessary; but if we say there is no need at all for a Code, I do not think any of us, if we apply a little commonsense, can accept that position. We see in this country there are people who profess different beliefs—*Dwaita* and *Adwaita*. There are people who practise monogamy and polygamy and in some places there is polyandry also prevailing. Under these circumstances, is it not necessary for us to see that we have got a uniform code for purposes of inheritance, marriage and several other things? During the time of the Britishers we found that in the guise of religious neutrality or non-interference, they never cared to see that any evils in the Hindu society were wiped out; they never attempted any reform in that direction. As a matter of fact, when Warren Hastings was impeached by Burke, it is said that one of the charges levelled against him was that he used those caste codes for purposes of his personal aggrandizement. The Britisher saw that the caste system was ideally suited for his own advantage, therefore he never interfered to bring about any needed reforms in the society. But that is no reason that at a time when we are free, we should not aim at bringing about this much desired reform. Somebody said, we are proceeding further, why should we take up this measure so early as this and why should we not wait for some more time? My point is this : this reform was long overdue; it ought to have come much earlier but for the fact that we were a dependent nation and that we were not masters of our own destiny. My submission is that it has not come a day too soon.

So many other objections were raised regarding the competency of this House etc. As a matter of fact, the honourable the learned