

Several Hon. Members: No no.

Shri B. Das: I want that on clause 2 there should be a closure.....

Several Hon. Members: No no.

Mr. Speaker : Order, order, hon. Members need not say yes or no. Let there be a motion for closure and if it is the general feeling that there has been sufficient discussion, I will accept closure. But, even if I accept it, the matter rests with the House ; they may accept or reject the closure motion. As regards the character of the debate, though I do feel that we are going into very general remarks, yet, I myself do not know how the discussion could be restricted, particularly in view of the nature of clause 2. Some communities are sought to be included ; some are sought to be excluded. There are amendments on both sides. Therefore, a general survey to justify the inclusion or exclusion of the provisions becomes to some extent at least necessary. That is why I was feeling difficulty in restricting debate on that point. However, I believe there are no points or explanations to be asked. Let us proceed immediately with the consideration of the Bill.

***Shri Syamnandan Sahaya (Bihar) :** The debate has now gone on for full two days. If the speeches made in this House are any indication of the reception that the Code is going to have in the country, even an optimist and ardent supporter of the Code like the Hon. Dr. Ambedkar should have no difficulty in arriving at the correct conclusion.

Shri B. K. P. Sinha (Bihar) : May I point out, Sir, that the supporters of the Bill have not spoken so far.

Shri Syamnandan Sahaya : It is no fault of the House, or even of those who do not agree with this Code if the supporters of the Bill do not like to rise and support their cause. How are we to know how many of them in their own hearts support and outwardly do not propose to do so ?

Shrimati Renuka Ray (West Bengal) : Take the vote and see.

Shri Raj Bahadur (Rajasthan) : If I understood correctly, Sir, you are at present calling those hon. Members who have moved amendments.

Mr. Speaker : Anybody, who wishes to support or oppose the Bill is welcome to do so.

Shri Syamanandan Sahaya : Sir, this bill has been, in various stages, before the country for, if I may say so, quite a long time,

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and opinions either in favour or against the Bill have been expressed both in the Press and on public platforms and even in this House on many occasions. I have no doubt in my mind that if the opinions are scrutinised very well, they will disclose not merely an opposition to the provisions of the Code

Shri Sonavane (Bombay) : On A point of order, Sir. We are now dealing with clause 2 relating to “Application of the Code”. The discussion should be on scope of clause 2 and not a general discussion. Is the hon. Member allowed to have a general discussion on the Code as such ?

Shri Syamnandan Sahaya : May I, Sir, with your permission, say.....

Mr. Speaker : There is no point of order. I just explained a few minutes ago that when you are discussing the “Application of the Code”, when you want to include certain communities or exclude certain communities, it becomes perfectly competent and relevant to show how the various provisions adversely affect or benefit the communities. That is why I said it is very difficult to restrict the whole discussion at this stage to specifically certain portions of the Bill. For example, I believe, yesterday, Sardar Hukam Singh, went into the question of marriages and went into the question of succession. It could not be excluded as irrelevant discussion because it is sought to enact that this Bill should apply to Sikhs also. He is perfectly entitled to show how this Bill adversely affected the Sikhs in the matter of marriages or customs or succession. That is how the points are interconnected. Therefore, it will be better if such points are not raised over and over again.

Shri Sonavane : But, Sir.....

Mr. Speaker : Order, order.

Shri Syamnandan Sahaya : As I was saying, if the opinions so far expressed—they are quite voluminous—and are in the possession of the Hon. Law Member himself—are carefully scrutinised, they would not merely disclose the opposition to the various provisions of this Code, but would also disclose an anguish, a feeling of anxiety, and a feeling of great concern, among the Hindu community over this Code. I know and I fully realise the sincerity of purpose of those who want to lead the community on a different channel. This is nothing new in history. Every reformer, perhaps, would not have been a reformer, if he had not thought that what he himself thought of religion was the right thing and that every other thing, as was said here by

the Mover, was archaic. Therefore, although I may congratulate the Hon. Law Minister for evolving a new religion which it is left to posterity to adopt or not to adopt, so far as present conditions are concerned, I must certainly warn him and Government that it would be a suicidal policy to make it an obligatory legislation.

The Minister of Law (Dr. Ambedkar) : We are prepared to commit suicide.

Shri Syamnandan Sahaya : This reform can only be considered either as a social reform or a religious reform. If it is a social reform, I don't see why the Hon. The Law Minister entered a caveat yesterday when some hon. Member suggested that it should be made all pervading. In that connection he urged that we ought to have consideration and regard for the sentiments and feelings of non-Hindus in this country. I am really surprised that while he advocated that for the non-Hindus, he does not seem at present to have any regard for the feelings of Hindus in this matter. Speaker after speaker in this House, coming from different parts of the country, belonging to certain different sects or certain sections of the Hindu community, have explained how they feel about the application of the provisions of this Code to them. Therefore, while this reform may, in the opinion of some, be called for, and urgently called for, yet, I do submit that it will not be fair to make it an obligatory legislation. I have, therefore, great pleasure in according my support to the amendment of Shri Jaspat Roy Kapoor who suggests that it should be left open to members of the Hindu community, or for the matter of that of any other community, to accept this Code and register their will to be governed by it. If on the other hand it is held that it is some type of a religious legislation, then I think Dr. Ambedkar will concede that this is neither the appropriate time nor even proper for a secular State to attempt some kind of a religious legislation. I consider that this reform is of a social nature. And from time of which we have any record, we have known that these social reforms have to be of a permissive nature so that people may be able to adopt them with pleasure. In civilised life, even conversion by force is not permissible, and I am sure Dr. Ambedkar will not make any attempt at forcible conversion to the religion which he propagates now through this Hindu Code.

When the Minister of Law started his speech yesterday—he will

12 Noon Pardon my saying so—I think he was a little nervous about his case, because normally he is not apt to go about hitting right and left. He has given this House the very good example of

very sound arguments at all time, some of them most difficult, both here and in the Constituent Assembly. But yesterday, he started his speech hitting right and left and calling those who had moved amendments and made speeches in support of them as being absurd and if I remember right, as being foolish and.....

Pandit M. B. Bhargava (Ajmer) : And devoid of commonsense.

Shri Syamnandan Sahaya : Yes, and devoid of commonsense. Well, though I did not like it, and though it hurt me, still as one who does not agree with him in getting this Hindu Code passed as it is, I felt a little happy that the author of the Bill was so nervous that he was not stable at all.

Shri J. R. Kapoor (Uttar Pradesh) : When the case is poor, abuse the adversary.

Mr. Speaker : Order, order.

Shri Syamnandan Sahaya : Now, if we scrutinise the provisions of the law carefully, we will find that there are really some tremendous difficulties which the mere passing of this Code is not likely to solve.

[MR. DEPUTY-SPEAKER in the Chair.]

After all, a social reform has to keep not merely, the individual but the whole society in view. And if certain provisions of this Code are given effect to, without any consideration to the particular manner in which society has been running for a long time, it will end in breaking up society as it is today. Therefore, I submit that it is necessary that this Code, if passed at all, should be permissive so that people who would like to be governed by it may do so with their eyes wide open.

Let us also see, what was the original intention of those who decided to have a Hindu Code. I will refer you, Sir, and the House to an important recommendation of the Hindu Law Committee popularly called as the Rau Committee. At page 13 of their report in paragraph 50, they say :

“Most of the provisions in the Code are of a permissive or enabling nature, and impose no sort of compulsion or obligation whatever on the orthodox. Their only effect is to give a growing body of Hindus, men and women, the liberty to live the lives which they wish to lead without in anyway affecting or infringing the similar liberty of those who prefer to adhere to the old ways”.

This recommendation, I submit, is very clear and it was made after the Committee had toured round the whole country and ascertained the views of the Hindu community. This recommendation must have

been made in all seriousness and I submit there is no reason for us now to depart from this very important decision of the Committee, whose recommendations are the basis of the Code which we are considering today. I do not know whether the mass of evidence collected by this Committee has been carefully gone into and if it is so done. I have no doubt in my mind that the Government of India will come to a similar decision with regard to the applicability of this measure.

Some friends yesterday made a suggestion about taking a referendum on this very important issue. Here again we find the Hon. Law Minister wholly opposed to it and not only that but the climax was reached when he said that the electorate are ignorant and they are people who do not know anything about this matter

Shri Bharati (Madras): About the technicalities of the matter.

Shri Syamnandan Sahaya: You heard his speech and so did I. The records are here. It is not a question of technicality at all. Every member of the Hindu community in this country knows fully what he wants so far as his religious and social laws are concerned and there will be no difficulty, in my opinion, in taking a referendum on a question like this. When I recalled that he who was the main architect of the Constitution of India and he who was an ardent advocate of adult franchise should now speak so disparagingly about democratic methods, it was not only a surprise but a shock to me and I thought within myself whether what the Hon. Law Minister himself said yesterday about the leopard not changing spots was as true today as when it was said. We cannot forget that wherever or whenever democracy is inaugurated they do not start it with the entire electorate being as educated as one would like them to be. Let us not forget that democracy is its own teacher and the more you consult your electorate the more you give them the chance to express their opinion, the more conscious and the more educated you make them. I therefore submit for the consideration of the Law Minister that there cannot be a more appropriate method of consulting the electorate today than a referendum on the Hindu Code. After all whether the electorate today is politically conscious to that extent or not, it certainly will have to be admitted that so far as religious sentiments and feelings and religious laws are concerned they are fully conscious and if you ask any man in the streets of a town or village, he will be able to tell you what is good for him. I therefore submit that even now there is a chance and opportunity and the Law Minister will do well to consult the electorate on a matter like this.

An Hon. Member : He is his own electorate !

Shri Syamnandan Sahaya : But if he chooses not to do so as it appears, then I will submit to him to make the law a permissive legislation. If he makes the law an obligatory legislation—I do not know for what he will take my warning worth—but let me tell him that he will fail in his attempt as did the Slave Kings of yore—the Lodis, the Tughlaks, the Khiljis, the Sayyids and the Moguls—who attempted in vain to eradicate the old religion and the old religious laws, which he called archaic yesterday. I have no doubt that his attempt at ending what he called archaic laws will fail in the same manner as did the attempts of others similarly placed in authority for thousands of years. There is something more than mere laws in the Hindu system of Social Codes. Its foundations have been much more deeply laid and could not be shaken by legislations passed in such haste without consulting the people affected.

When listening to the speech of the Hon. Law Minister I was reminded of a story which for a long time was published by the *Amrita Bazar Patrika* year after year on a particular day. The story was about an old Pandit and Pandits are proverbially poor. His wife pestered him from time to time about finance for running the household. The Pandit was able to fork out a rupee or two now and then to enable the household to be carried on. One fine morning he struck upon something very novel and told his wife, “You need not worry about funds any more. I have found out a device by which I can get a lakh of rupees.” The wife asked him what was the device. He said “I have composed a few couplets last night and I shall go to the Raja tomorrow morning and place before him the couplets. I will tell him that if he could find any Pandit in his *Durbar* who will be able to interpret the couplets then I would pay him a lakh of rupees. If, on the other hand, no one can interpret my couplets the Raja would have to pay me a lakh of rupees.” The wife laughed and said “You must be a fool. Supposing some one interpreted the couplets, where are you going to get the one lakh from to pay to the Raja?” The Pandit in his turn laughed and said “You ladies have no imagination. You people never had any since creation.....”

An Hon. Member : Is it your opinion ?

Shri Syamnandan Sahaya : Not mine, it is the Pandit’s opinion. I cannot speak so disparagingly of women. Continuing, the Pandit said “It is very simple.” She asked what was it and the Pandit said

“I shall accept no interpretation. The Pandits will come and go and I shall accept nobody’s interpretation. I will say that is not the interpretation and ultimately the Raja will have to fork out the one lakh of rupees.” Even so whatever advice or suggestion or opinion we may express here., if the Hon. Law Minister is in the mood of the Pandit what can we do ? We have to appeal to him and tell him what is the opinion outside. I have no doubt that he will depend upon us for giving him such information as we are capable of gathering by going round our constituencies...

Dr. Ambedkar : I have more information than you have.

Shri Syamnandan Sahaya : You may have more than what I personally have but I am talking of the Members of the House and I am not talking of myself only. I dare not say that I have more information than you have.....

An Hon. Member : What about the lakh of rupees ?

Shri Syamnandan Sahaya : The Pandit got the lakh of rupees all right.

Pandit Thakur Das Bhargava (Punjab) : Has the Hon. Minister not admitted before in this House that public opinion does not favour this Bill ?

Shri Syamnandan Sahaya : Has he ? I am very glad. That very strongly supports my case. If that is so, then there is no ground for the Hon. Minister to come to this House at all with this Code. In any case the difficulty arises when you come into power : then, naturally apart from power, one has also the feeling that one has the knowledge, the information, which no one else possesses. Mr. Gladstone was once rebuked by Queen Victoria by remarking, “You must know, Mr. Prime Minister, that I am the Queen, the Sovereign of England” And Gladstone hit back by saying. “Yes, Your Majesty, but I am the people of England”. So, you Mr. Law Minister may be today the Sovereign of India., we are the People of India, and if you don’t listen to us you will go the way the sovereigns have gone. Whether you like it or you don’t, this is what will happen.

This matter of the Hindu Code, in my opinion, should not be taken—pardon my saying so—as it is being taken. Religious reforms and social reforms are certainly necessary. No one could possibly get up in this House and say, “No, we shall stay where we are”. What are we then asking you to do ? We are only asking that the legislation be made permissive. Let the people know all about it. Let them think

over the matter and having considered the whole matter if they think it is for the betterment of the country, for the betterment of the society, they will accept it. But do not for God's sake make it obligatory.

Shri R. Velayudhan (Travancore-Cochin) : Then what is the meaning of a legislation ? Why have it ?

Shri Syamnandan Sahaya : I will explain to you presently what is the meaning of legislation. You are perhaps fresh to a legislature. Otherwise you would not have asked that question. Anyway I will reply to you in a few minutes.

Shri R. Velayudhan : I have read the Hindu Code.

Shri Syamnandan Sahaya : You have read the Hindu Code. That is good enough. Then you will go to heaven straight.

If you look at the legislation and the different parts of it, you will find that on various details certain exceptions have been made in the Code itself. Now, the Code excludes in certain respects the two communities following *Marumakkattayam* and *Aliyasantana* laws. And yesterday the Hon. Law Minister said that he was omitting sub-clause (4) to allow some type of married men to be governed by the Succession Act, that is those who were married under the Special Marriages Act.

Mr. Deputy Speaker : He said it was more liberal.

Shri Syamnandan Sahaya : Well, if it is more liberal for them I do not see why the more liberal law should not be good for everybody. He is codifying the Hindu Law—not laying down any new but bringing up-to-date in certain respects the existing laws and bringing in some reforms. If you want you can be more liberal—who prevents you ? But after all, if you claim that one of the main purposes of this Act in the first place is to codify the Hindu Law, keeping in view the different rulings and different interpretations and making the best use of them and also introducing progressive reforms—if that is so then I don't see why you should have one set of succession laws for one class of married Hindus and another set for another class. If you want to do it, do it. There is no use saying that such of our friends here who advocate the passing of a Civil Code do not really want it. Pardon me for saying so, but let me assure the Hon. Law Minister that it is not so. The feeling is that if you want to put the whole country on a certain basis even if it meant some sacrifice, do so and we will gladly accept it. But you pick and choose and single out one community who perhaps would not be prepared to fight with you on that issue.

If you pick out that community and do what you like with it, and the rest say, “Don’t touch our religious susceptibilities”, then that is where the real difficulty arises.

Then the Code already excludes customary laws which will operate in spite of the Hindu Code. Exclusion has also been permitted for those who were governed by separate customs although they may be belonging to the Hindu community : so that it will be found that these differences and these exclusions, these permissions to be able to be governed by another law are already found to the Code. I therefore submit that it is not really asking too much of the Hon. Law Minister and of this House to make this Code a permissive legislation.

There are other difficulties also which I would like to mention for the kind and sympathetic consideration of the Hon. Law Minister.

For instance, it is laid down that all divorces henceforth will have to be registered. When I read this—not only this but other paragraphs and other sections of the Code—I felt like exclaiming that the Code was really a heaven for lawyers, and that if anyone was going to profit or benefit by this it would be the past colleagues in law courts of the Hon. Minister. You may pass this Code tomorrow. Supposing we all agree that we shall not discuss this legislation any more and we pass it tomorrow, even if we do so do we really and seriously think that the people living in the villages, whom the Hon. Law Minister refuses to consult by a referendum because they are ignorant, will from day after tomorrow start registering all their divorces and all their marriages?

Dr. Ambedkar : There is no provision for registering divorces.

Shri Syamnandan Sahaya : I am sorry if I take time but before the House rises I shall read out to the Hon. Minister this provision. I have already tabled an amendment on that clause.

Shri Bharati : Registration for marriages only. There is no registration for divorces. You make a mistake.

Mr. Deputy-Speaker : The hon. Member evidently means that there can be under the Code no divorce except by a decree of court.

Shri Syamnandan Sahaya : Yes. The hon. Member has again drawn a distinction between tweedledum and tweedledee though it was not expected that he of all persons would take recourse to these. Well, if it is not registration and if it is only through law courts, then it strengthens my argument all the more. Is it possible to imagine, when we have a vast majority of people—thirty-three crores—many

of them living in rural areas, not knowing anything about procedural laws and rules, is it possible to imagine each of them going to court for marriage and divorce ? I had thought it was only registration where the lawyers would get very little fee. But if it is the law courts then I have no doubt, and the house and the Hon. Law Minister will agree with me, that it is a heaven for the lawyers. In this vast country at least for some time to come—I should say for a long time to come, but certainly for some time to come—there is no justification for such an obligatory legislation to be passed. Give them the chance—if they think it is necessary then let them adopt it.

We have said a lot and the Code also claims for itself a very great and progressive position when you say we are giving this and we are giving that to the women of our country. I suppose that up to a certain point there is something to be said about it. But if we study the social conditions today among the Hindus, shall we not agree that these ladies in their households are almost each of them an Alexander unto herself ? You want to reduce that position of being the monarch of all they survey to that of a mere partner and you know what respect partners evoke, particularly when you are doing away with the joint family system. In a joint family system, the partners had a certain respect and position. There was inter-dependence and therefore one partner cared for the other partner. But having done away with the joint family system, you want to reduce the women to the position of a partner. If you are a partner, you have your set rights and your set quota. Today, the women are the masters of the whole household.

Dr. Ambedkar : Yes, very much.

Shri Syamnandan Sahaya : Tomorrow, you will make them partners.

An Hon. Member : Partners in what ?

Shri Syamnandan Sahaya : Partners in property.

An Hon. Member : Not in life ?

Shri Syamnandan Sahaya : I meant partners in property. After all, she gets something from her father's house. She is the owner of that. She feels she has got something by herself. Why should you not make her depend upon the newly acquired house of her husband ? You know, after all, properties create difficulties. I know of families, not one but many, where the power of attorney by the wife is not held by the husband but by some other person.

Dr. Ambedkar : There may be very good reason for it.

Shri Syamnandan Sahaya : That is what your Code will reduce the Hindu community to. If some people like it, then of course I have no objection to their adopting it.

Shri Raj Bahadur : Hence the necessity for divorce.

Shri Syamnandan Sahaya : I know young people like you are very anxious to have divorce laws, but there are other people who have to think of your welfare.

So, these are the difficulties about this legislation and before I resume my seat I would strongly urge upon this House and the Hon. the Law Minister to accept the amendment of making this legislation permissive. Otherwise, I am afraid it will not be taken so lightly by Hindus as Government think. It is going to create a great furor in the country.

Dr. Ambedkar : No.

Shri Himatsingka (West Bengal) : Dr. Ambedkar is not afraid.

Dr. Ambedkar : I don't think so at all.

Shri Syamnandan Sahaya : I have no doubt in my mind that the Hon. the Law Minister is not afraid. He need not be afraid either. I had attempted not to say this, but I am doing so now. When I was last in my constituency, some people came to me and said, "You have not been a Congressman before" I said, "Yes, I have not been a Congressman before." They said, "You also dine with Muslims and are not orthodox and you are not a very devout Hindu." I said, "Yes. I am not a very orthodox Hindu in that sense." And then they said, "Is it therefore that this Hindu Code has been invented which has the effect of a bullet that kills two birds at the same time, namely, the Hindu community and the Congress ? If the Congress Government is not circumspect and responsive to public opinion even after this, let them go the way they like. The country and the people will decide what to do with them."

***Shri Alagesan (Madras) :** Unfortunately yesterday the House was plunged into a mood which detracted very much from the seriousness of the measure that is before us. I am glad that we have now regained the proper mood to consider it more seriously than before. Yesterday, the Hon. the Law Minister put up a very vigorous plea for the acceptance of the Code and his amendments. He is always a superb advocate. Apart from the content of Iris speech, the tone and the manner of it brought even those who oppose him very near getting convinced.

* P.D., Vol. VIII, Part II, 7th February 1951, pp. 2499-2504.

Shri Venkataraman (Madras) : But you were not.

Shri C. Subramaniam (Madras) : That is why he said “very near”.

Shri Alagesan : I would like to be completely convinced, but I am sorry to say that I am not convinced. I would still urge the Hon. the Law Minister to bring forward a common civil code, though he derided the idea and even went to the length of attributing motives to those who wanted such a thing. For instance, he asked : “How is it possible that those who oppose the Hindu Code tooth and nail would accept a common civil code ?” He questioned their motives. But I would respectfully ask him. “Why is it that they object to this Hindu Code ?” Is it not due to the fact—partly at least—that it does not apply to the entire nation ? It applies only to one community, however large a section it may be. Thus, this Code is only a sectional measure and it is not a common measure for all. Is not the opposition to it, at least partly, due to this fact it does not embrace the entire nation and the entire community ?

Again, he said that he would produce legislation tomorrow, as if anybody doubted his capacity to produce legislative texts. He threatened to bring the text of a common and universal code tomorrow and confront the House with considering it. But that is not the main thing about it. If he proposes to confront this House with a common civil code, then it has to be considered in all its aspects and bearings by one and all and he will be the first person to come forward with amendments to that code. He said yesterday that no legal ingenuity can improve upon the Indian Succession Act, but I am sure, the artist that he is, he will go on amending even the best piece of legislation. Even for this Hindu Code, we find that his amendments are larger in number than the amendments proposed by any other Member. He can amend, and amend because others want it and desire it.

Again, he went on to expatiate on the sovereign and supreme nature of this Parliament. Nobody ever questioned it, but the sovereignty and the supreme nature of this House need not have been affirmed at the cost of an insult to the master of this House. That was the unfortunate part of it. Though we are a sovereign body, we are subject to the people’s will and our sanction is the people’s will.

Babu Ramnarayan Singh (Bihar) : Hear, hear.

Dr. Ambedkar : Why don’t you live in the village rather than live here ? You will be a better master there than you are here.

Shri Alagesan : I wish to put a counter question to the Hon. the Law Minister. He said that those who oppose the Hindu Code cannot agree to a common civil code. It is impossible, he said, because he knew those persons very well. Everybody knows that the new elections will be held all over the country for this Parliament as well as for the legislatures of the various States within a year's time. It is not necessary that because this House is sovereign and supreme it should take upon itself the task of legislating on each and every subject. It may postpone some legislation : it may leave, with profit, some legislation to the House that will be elected within a very short time, and I do not doubt that the Hon. the Law Minister will concede that the new House that is going to be elected will have more time and will certainly be better placed and will certainly reflect the latest opinion and mood and temper of the people than this House can ever do. Will he not concede that such a House will be better placed to enact this piece of legislation than this house is ? And if he does not choose to do it, if he does not choose to leave the matter in the hands of the House that is to come, is it due to the fact that he is afraid that this measure will not be passed by that House ? Shall I attribute such a motive to him, though I would not like to do it ? (*An Hon. Member :* You have done it.) Why then does he fight shy of placing this all-comprehensive codification of Hindu law, before the new Parliament of this country ? I think he should satisfactorily answer this question.

But the chief complaint against the present Government, if one can say so, is this. After we have succeeded in our revolution, we have failed more in the psychological sphere than in other spheres. We have failed to enthuse the people : we have failed to strike that emotional chord in the people which alone binds them to us. Everybody is worried on this account. Why ? It is good that we consider this question and examine it a little more carefully. In my opinion, we have decided largely on a policy of carry-over. We simply carry on the old traditions and we have not done anything to show a striking change which appeals to the people. This Hindu Code is an instance in point. It has been conceived under quite different circumstances, when we were under the impression that everything that is Hindu is wrong and cannot be correct. We wanted to reform, we wanted to change, but not with a proper appreciation, in my opinion. We are simply carrying that over. We are trying to model the Hindu Code as a code that will apply to the Hindu community, though it is a very great community

in this country, and not to all. It is because we have failed to introduce any innovation that we are in this mess. We have got everything that goes to make an emotional appeal to the people and yet we have strikingly failed in that field. That is something like a play with all the ace actors and yet the play fails to impress the audience. Our performance I shall liken to that.

What is the reaction that we have produced in the country by bringing forward this measure ? Supposing we had brought forward a common measure that would have applied to one and all. Then there would have been an electrical change in the atmosphere in the country ; there would have been an atmosphere of realism with regard to this measure. We would have been able to consider this measure more realistically than we are at present doing. And that we have failed to do. If we had done that we would have convinced the entire country that we are taking cudgels against and demolishing all differences based on caste and religion in the true spirit of our secular democracy. We would have incidentally translated our ideal of secular democracy into action and would have convinced everybody. Now there is not even a ripple on the surface except the placid placard holders outside this House and the imposing police cordon ; and perhaps occasional crowds in the galleries in multi-hued *saris*. We have not succeeded in producing any greater effect than this. But, I am sure that if the Hon. the Law Minister were to come forward with a common code that will embrace all communities, then the whole country will take interest in it and try to be more realistic about it. I may also venture to say that the reaction outside our country would also be much better, because at present we are held up to ridicule in the outside world by interested parties that we are a nation wedded to caste with the result that our prestige suffers. A common code would have done everything to dispel such a misunderstanding.

Again, there have already been instance where the Hindu law embraced other communities. I am told the Moplahs of Malabar, the Kutch Momins and the Khoja community, the followers of the Aga Khan, were all following the Hindu law and were governed by the Hindu law up till the year 1937 when the Shariat Act was passed. I am told that even the author of Pakistan was governed by the Hindu law. When such is the case why should you fight shy of bringing forward a common code which will embrace all Hindus, Muslims, Christians and so on ?

Yesterday, the Hon. the Law Minister was very pleased with the speech of my friend Pandit Thakur Das Bhargava. He was all praise for the Code. He showered encomium on the Hon. the Law Minister for having thought fit to bring forward this measure. But, he made one very important reservation. He said all this only on the condition that it should not apply to the Punjab. He made an observation that those who have moved amendments are trying to rope in the other communities, the non-Hindus in this Act, and he asked whether the non-Hindus in this House are prepared to come under this measure. He went on to answer the question himself in the negative. But, I have consulted some of the non-Hindu Members of this House and they are quite willing to have a common code.

Dr. Ambedkar : Non- Hindus ?

Shri Alagesan : Yes, non-Hindus.

Shri Bharati : May I have the names of those Members ?

Shri Alagesan : The hon. Member may have it later from me ?

As it is, we are doing a great injustice to the non-Hindu Members of this House. They are unable to take any interest in this discussion.

Dr. Ambedkar : Why, Mr. Nazruddin Ahmad has.

Shri Alagesan : He only reflects the opinion of his clients. The other non-Hindu Members of this House simply sit back and relax. They are not able to take any lively interest in the discussion, if they support it they are afraid of wounding the susceptibilities of the orthodox section of the Hindus: if they oppose it they are afraid of still more terrible elements. So they are playing a passive role.

Prof. Ranga (Madras) : They support the Bill.

Shri Alagesan : That is doubtful. It is, therefore, necessary that we should make this measure more representative. Because, there will be nothing objectionable in it. If monogamy is good for a Hindu it ought to be equally good for a Muslim.

Shri Syamnandan Sahaya : Better for him.

Shri Alagesan : The present day Indian Muslim would not, I think, oppose it on religious grounds, because when Muslims were permitted to marry up to four wives perhaps it might have been on account of the expanding phase of the Arab Empire. They wanted to expand and conserve, and so they were permitted to marry up to four wives, perhaps. But now we are faced with an entirely different situation in this country. Though our Prime Minister likes and loves to play

with children and forget many of his worries, he is not prepared to greet their first arrival in this country. He has said so openly, and the prospect of more and more children certainly frightens him as well as it frightens everyone. It is a patent fact. I have no doubt our Muslim friends will realize it and try to fall in line, whatever their present religious law or practice may be. So it is not as if there are insurmountable barriers in the way of evolving a common civil code for this country.

I would like to quote the example of China. It is as ancient as our country. Apart from the ancient texts, they have recently evolved a civil law which embraces and tries to enact the three principles of the people enunciated by Dr. Sun Yat Sen. These principles, as the House knows, are nationalism, democracy and popular economic progress. We can very well follow the example of China, as we are placed in a similar situation, and try to put in our principles, the principles that the Father of the Nation placed before the country, and make them a reality. Nothing would have pleased him better than the bringing within the ambit of one civil code all the great religions that inhabit this country,

My hon. friend Pandit Thakur Das Bhargava waxed eloquent and welcomed most of the things that are found in the Code because he was sure that they would not apply to him. He welcomed all the salient features of the Code because he was sure that they would form the basis for the future civil code of this country, and he felt that this was a right step in that direction. But I am afraid I am unable to accept his plea. I am afraid it only side-tracks and postpones the question of evolving a civil code. Now that we have done our best by the Hindu community we would not bother about a common civil code, because the impression generally is—and I think there is good ground for it—that we are prepared to meddle with everything that is Hindu but we are fighting shy when it concerns others.]

Prof. Ranga : One by one.

Shri Alagesan : I only wish that the prophesy of the professor will come true, that you will approach others also and try to reform them also. But as it is, the impression is gaining ground—and that is the ruling impression—that we are prepared here to go only to the Hindu community and none else. And that in my opinion is the chief psychological barrier to the passing of this measure. I hope the Hon. Law Minister with all his ingenuity will devise something which will dispel this

misapprehension and try to convince not only the members of this House but also the people outside and then launch upon his offensive.

***Shri Biswanath Das (Orissa):** Sir, I thank you very much for having given me a chance to have my say in the course of discussions over the Hindu Code Bill. I was really trying to play the role of a backbencher in regard to the discussions on this Bill. But certain views expressed by the Hon. Minister of Law have goaded me to speak and record my protest.

In the course of his speech—need I say very lucid and analytical, speech—he used certain choice expressions which are not only unwarranted but uncalled for. He has declined the demand for a referendum. I am not very much in favour of a referendum. I am not very much in favour of a referendum after all that has taken place. But to call it ‘absurd’ is as absurd as the absurdity itself. You are going to legislate on very important matters, namely, questions relating to marriage, divorce, adoption, joint family, women’s property, succession, maintenance and the rest. The Hon. the Law Minister himself has recognized and admitted that the system of Hindu Law involves not only the legal frames of the society but also of our religious precepts would it be fair for him to take up the legislation of such important questions which concern the society, the life and living of crores of people of this country, without consulting the people themselves? In the course of his speech he stated that he does not know of any country where a plebiscite is taken for legislation. Even in ordinary matters, such as nationalisation and the rest, important political parties have refused to undertake such responsibility in a democracy. They dissolve Parliament and go and take the mandate of the country on such important issues. I would ask the Hon. Minister whether the principles involved in the Bill are less important than those in England and elsewhere where Parliaments have been dissolved and a mandate of the people has been demanded and taken. Does it come well from him to say that these are not matters on which a popular mandate is necessary. Let me not think of a plebiscite or even a dissolution of Parliament or anything of the nature demanded by some of my friends though those are relevant, logical and constitutional. We are an indirectly elected Legislature. Parliament has to carry on business till the House is duly constituted. It is more or less in the nature of a caretaker Parliament I do not dispute the technical

right of this House to pass any legislation. But constitutionally, it looks to me odd to say that on such an important legislation as this, we are to be refused to take the mandate of the people. Is it because he is well impressed of the fact that the people on consultation would not allow him to go on with the legislation? Otherwise, where is the need on his insistence not to put off legislation which is hanging fire so long and also to insist upon one question, namely, that it shall be passed only in this House. I ask why in this House? What sin has this Parliament committed? Is it because it is an indirectly elected legislature? I would tell him that he is as good a representative as myself. I am elected by the Provincial legislature of the State of Orissa and he is elected by the State Legislature of Bombay. I have a right to ask the Hon. Minister whether he has consulted his electorate and whether he has got the mandate of his electorate in this regard.

Dr. Ambedkar : I do not want a mandate.

Shri Biswanath Das : You do not want a mandate. That is the sort of responsibility you owe to your constituency and that is the sort of constitutional notion that you want to inculcate into the people of our country. I will only refer my hon. friend to the Preamble of the Constitution which this House has enacted and to which my hon. friend, the Minister of Law has made a very notable contribution.

The Preamble of the Constitution says : “.....to constitute India into a Sovereign Democratic Republic and to secure to all its citizens : Justice, social, economic and political ;.....” I want to ask him whether this is his sense of democracy to say “I refuse to consult the illiterate masses who have sent me here, who have given me the chance of representing the Province and which has given me the chance of assuming the reins of office as a Minister.” Sir, all this is under the Constitution. We assure all its citizens social, economic and above all political justice. I would join issue with my hon. friend if he says that he has not assured political justice to the people of the country, because he refuses to consult them, the very electorate that have sent him here.

Dr. Ambedkar : Next time they won't elect me.

Shri Biswanath Das : It does not matter. You can stand by yourself. You do not need their vote and that is the reason why you find it an easy safety-valve.

Dr. Ambedkar : I care more for the Code than for my election.

Shri Biswanath Das : I am not thinking of my election. I am thinking of my responsibility as an elected Member of this Parliament.

Dr. Ambedkar : It is one o'clock. Have you concluded ?

Shri Biswanath Das : I will continue in the afternoon.

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

The House re-assembled after Launch at Half Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Biswanath Das : Sir, in the course of my speech this morning, I was speaking how, in democratic countries, when important, legislations and questions have to be taken up and are being placed on the statute book, the party foresees the legislation,

Shri Ramraj Jajware (Bihar) : On a point of order, Sir. There is no Member on the Treasury Benches.

Mr. Deputy-Speaker : It is regrettable that there is nobody to represent Government. The Minister of Law has just come in.

Shri Biswanath Das : ... places its programme before the country in the form of a manifesto, then on the basis of that manifesto, elections take place, and the party gets a vote in favour of the principles for which it stands. I claim that nothing of that kind is possible in an indirectly elected legislature as the present Parliament is. None-the-less, we have an electorate. That electorate is an enlightened electorate. Neither the Hon. the Law Minister nor his friends in this House or outside this House could say that the electorate to which we have the honour to belong is not enlightened. They are no other than the Members of the State legislatures. I claim that Government and the Law Minister should have taken necessary steps in this regard to consult the State Legislative Assemblies on this important legislation by requesting them to have their say in the matter, which would have given an opportunity to the country to speak itself. At the same time, it would have made the passage of this legislation easy and convenient: easy because with the command given by our electorate, it would not have been possible for the hon. Members of this House to oppose this legislation without resigning their seats ; convenient because no one would have had the audacity to say, "I differ from this legislation and yet I continue to be a Member of the House". No one could have it both ways. No one could afford to be a Member of the House and refuse to carry out the mandate of the electorate. Therefore I claim -that the Hon. the Law Minister as also Government have failed in

this important respect, which was and is still open to them. I agree with the Hon. Law Minister, though differing from him that this legislation is urgent, and immediate to be passed in this Parliament.

By all means do not take recourse to a plebiscite ; but the time is still there to make a reference to the State legislatures. After all, we are not going to pass this Bill in this Budget session. I may, in this connection, state that I for myself doubt the sincerity of Government regarding the need for passage of this Bill.

Several Hon. Members : No, no.

Shri Biswanath Das : My hon. friends who are anxious may say, no, no. I have a right to put forward my point of view in presenting my case before the Members of Parliament. If they were really anxious, it would not have come before this House for discussion for three days. What is the meaning behind it ? I must frankly confess that I am unable to understand how in a legislation of this nature, in respect of which there are wide differences among us and protests all over the country, the Law Minister or the Cabinet expects that these could be solved and the Bill could be placed on the statute book within three days as my hon. friend Mr. B. Das was claiming. I refuse to live in a fool's paradise. A legislation of this nature, unless it is to be pursued through a party mandate, has to continue from day to day and each person being allowed to have his say in the matter and try to place his points, if possible, for the acceptance of the House. Under these circumstances, I very much doubt the wisdom of the Hon. Law Minister in allotting three days, and that in this Budget session when you have not only to pass the Railway Budget, and the General Budget, but have also forty or fifty important Bills that are pending. Government say that they are hard-pressed for money. The newspapers announce that fresh taxation is awaited. I do not know how far that is correct. If there is any speck of truth in that, I have a right to ask the hon. Members on the Treasury Benches as to what they have done regarding the passage of the Estate Duty Bill which is hanging fire for the last one and a half years. I claim that first things should come first. What is the problem that you have solved up till now ? You have solved no problem ; but you have succeeded in creating problems. I believe, therefore, that Government, or at least the Law Minister is not anxious, nor is he very alert to see that this legislation is passed into law. If they were so, a special sitting, that was promised by the Leader of the House should have been conveyed, or a special session could be convened to discuss the Bill thoroughly and pass it into law.