

thing. It is said that a custom, to have the validity of a custom, must be ancient, must be moral, must be definite, etc. These are principles under which customs will be recognised in courts of law. I say it is wrong to say that, notwithstanding the validity of any established practice, we abrogate that because we have come to a different conclusion. What right have you to say so ? It is not that I am questioning the competence of this Parliament to go into this matter. I am only saying to my Hon. Friend, let him not force this law on the community. It may become a dead letter. Let the people come forward and ask for these reforms. I would like to have statistics as to how many persons have married under the Civil Marriages Act. We may call the people ignorant; after all, time will judge whether they are ignorant. Therefore, I would appeal to hon. Members not

4 P.M. to jump before you are sure of the ground Let us have piece-meal legislations. We had the Widow Re-marriage Act. We had the Act to give women the power to inherit property. We had the Act to restrain child marriages and so on. Therefore, I say, let us wait and see. Let us go slow. Nothing will be lost thereby. Nothing will be lost because we do not allow divorce. Allow it to those who want a divorce. Let those who have solemnised their marriages under the civil authority, to jointly make a declaration that they will be governed by the Civil Marriage Act. If there is a volume of opinion against a measure, let us try to change that volume of opinion. Let hon. Members consider the question coolly and deliberately. Let us not displace the existing system merely because something is novel or strange so that you may go with the rest of the universe. We understand what is meant by Christianity. Germany is a Christian country, but were there no fightings in Germany ? Do not Christians fight with each other ? How can we say that because of castes and creeds in our country the nation went down to the Greeks ? Why give a platform and a point to every other man to abuse us ? We have progressed, and progressed considerably. In Switzerland, they say no woman has a vote. Then why not our women go there and ask them to demand votes ? There is no use giving a lurid picture of our society and of our women. Our women have produced Sitas and Savitris. They followed their husbands. Perhaps we have now to follow our wives. Let them write our *Puranas* and say that men should follow their wives, if that would bring domestic peace. To-day we are husband and wife. To-morrow I go to a cinema and see a woman well made

up with powered face and all that. Am I to come home and beat my wife, just because she is not as pretty as the one I saw in the picture ? And the next day, am I to apply for a divorce ? No. Woman is the weaker sex. Perhaps they may quarrel with me for saying so. But you cannot get rid of these institutions unless you pray to God to have only women in the world or only men. These institutions are very necessary. They are necessary for the proper balancing of domestic life. They are necessary in the interest of economy in the interest of solidarity and in the interest of avoiding unemployment and in so many other interests. If the husband dies, there is the brother-in-law to take care of the widow. We have also the maintenance laws to give at least a temporary strength to the widow, to stand by herself. I am only opposing those ladies who want to take away a chunk of their father's property and leave the husband alone. May God save us from them and from having an army of unmarried women.

Shri T. N. Singh (Uttar Pradesh) : Sir, I have an amendment in my name.

Mr. Speaker : All those who have tabled amendments and others also will get a chance.

***Shri Raj Bahadur** : I have listened very patiently to the speeches of the hon. Members who have spoken before me, although I raised certain pertinent questions for them to throw light upon. [I find myself in complete agreement with the provisions of this Bill.] And my support is based not on any misplaced enthusiasm or the rashness of youth, but because I feel that this measure is necessary because of the exigencies of the moment and the situation created by the attainment of independence by our country. I feel that unless we have a measure of this kind and keep peace with the times, we are bound to fail.

It is well known that perhaps during the last three years no other Bill or legislative measure has provoked so much controversy as the Hindu Code Bill, and passion, prejudice, sentiment and superstition have all come in to cloud our judgments. It is a little difficult in an atmosphere so surcharged with superstition and suspicion for the country and also for this House to come to a balanced conclusion, a balanced judgment on the merits and demerits of the Bill.

The critics of the measure can be divided into three categories. First of all there are the people who like the Hon. Deputy-Speaker genuinely and sincerely feel that we are definitely marching ahead

* P.D., Vol. VIII. Part II, 7th February 1951, pp. 2532-36.

of the time and the adoption of a measure of this kind would do us harm, that it would harm Hindu society which would be irreparable. Then there are others who day in and day out criticise those who are responsible for this measure, and to them what matters is not what is being said, but who says it. These people have clouded the judgments of the masses also. It is well known that our masses are ignorant and they are tossed violently between these two extremes. It is also well known that when a country attains Independence, there is a natural desire felt by the people to have uniform laws and to codify their existing laws. This has synchronised with national awakening. This is not the first time that such a desire has been expressed by the Indian people, through their representatives in the Legislature. As early as 1921 there was a resolution to that effect by a Member from the Central Provinces. Shri K. J. Bagde and Sir Tej Bahadur Sapru was the then Law Member. The resolution was to the effect that all the various branches of the Hindu Law as then existing should be properly codified. From time to time this question was also raised in the Central Legislature and I find that as eminent a person as Shri Ganganath Jha has put a question on the floor of the House asking when the codification of Hindu Law would take place. We may note that that was also a period of national awakening and this desire to codify the law was being voiced at that time.

The option has been expressed that this Code should be made applicable to non-Hindus also, to Christians and Muslims and others also that there should be a common Civil Code. Articles in the Constitution have been referred to and it has been said that this Code violates some of those articles. But I am sure when the Civil Code comes up for consideration, these very same persons would come forward to say that this Civil Code violates article 44 which guarantees the liberty of thought or religion. That will be the objection raised, of that I have no doubt in my mind. The demand for a Civil Code, seems to be bogus and without any meaning.

If we apply our minds to the present condition of Hindu society we will find that there are various differences and divisions in various matters, in the matter of marriage, of adoption, of succession and soon. It is impossible for the country to make any progress unless there is some codification of these various laws. So far as other sections of society are concerned they have this in some measure. For instance, Christian and Muslim women have some rights and privileges which.

are sought to be given to Hindu women by this Code. Christian and Muslim women are now entitled in some measure to the right of inheritance. In the case of Muslim women, divorce is also obtainable to them.

An Hon. Member : No.

Shri Tyagi : It is not a right but a liability.

Shri Raj Bahadur : You may call it a liability but I would request you to apply your mind to the provisions of the Bill. There are many instances where a Hindu has deserted his wife for more than five years. Hindus have changed their religion and there are instances where Hindus keep other women while their first spouse is living. In such cases of immorality will you not come out with your galantry or chivalry and allow divorce to such miserable Hindu sisters ? The right has been given to a Hindu male to marry four or five times. If the sanctity of marriage is there it should be for both man and woman. If a woman is expected to be pure, chaste and faithful to the husband, is it not for the man also to bind himself by the same obligation ? Why should it be one-sided. If we say that man is God's favourite creature, it will not help our society or country in any way.

Let us look at it from another angle. In the present state of the world whenever there is a threat to the frontiers of a country and there is a war, it is not fought on the old lines. It is a total war. In the last great war while British men went to the trenches and the firing line, British women folk applied themselves to the various tasks of national responsibility. For example, they ran railways, worked on the buses and in ammunition factories. Unfortunately it is a fact that we regard woman as a liability, as something which is below ourselves. The common man's conception of a woman is that she is like the shoes on our feet. If they are torn we can throw them away and take a new pair.

An Hon. Member : Is that the conception in Rajasthan ?

Shri Raj Bahadur : That is so not only in Rajasthan but in most of our rural areas. It is so in high families also. It is time that we realise the bitter truth. It is time that we recognise it if we want to shoulder the responsibilities that have devolved upon us as a result of our independence. If we want to make our home and this country Bharat Varsh secure we should have to see that our women folk are brought on a par with man. It is not Westernism or Modernism but the exigencies of the moment that require it. You cannot face all the threats to your security as a nation unless you radically change our

attitude towards the women of our country. It is impossible to go ahead with the task of reorganisation of our country unless and until our women get the same status as man in our society and it is a patent fact that today that status is not granted to them. Unless and until the law that is there is codified and brought within the reach of the common man it will be impossible for our people to be unified.

May I in this connection refer in passing to the difficulties that we are experiencing today ? Our law has been what the British Judges in the Privy Council have interpreted till now. It is a well known fact that conflicting judgments exist on the same points. For example you can cite many contradictory rulings on either side. Apart from that the law as it exists today is only within the reach of experts, lawyers or judges and the common man does not know what the law is. Is it not good that by codifying the law and making it more rational by modifying it to the extent desirable, we may make the law within easy reach of the people ? Otherwise our progress towards unification and solidarity will be impossible.

The question before us is not whether we should codify. Even the bitterest opponents of codification have veered round to the opinion that codification is necessary. How far should we codify it, is the question. There are only three or four points which have aroused bitter controversy.....

An Hon. Member : This is not a general discussion.

Shri Raj Bahadur : It is a discussion on the points hon. Members have made that the whole Code should be made applicable to the entire nation.

Bitter controversy has raged firstly about divorce and marriage laws and secondly about inheritance. I will confine myself to these two important points. I would say that the provisions of the Bill and the latest amendments proposed by the Hon. Law Minister may be modified to a certain extent, if we find that we cannot go whole hog. But so far as the basic principle of divorce is concerned we shall have to recognise it.

I might give you an example. If a man happens to convert himself to Islam or any other religion, at the present time his wife and children are also compelled to do so. Is it not necessary that at least in such cases our women folk should be allowed to remain within the Hindu fold ? Can anybody object in principle to divorce being allowed in such cases ?

So far as inheritance is concerned I am not in favour of allowing the daughter any share after her marriage in the father's property. But if she is unmarried she must be allowed the same as her brother. That is an amendment which would meet the viewpoint of my learned friend Pandit Thakur Das Bhargava.

In conclusion, I would say that so far as the opposition to the Bill is concerned it has made out of certain political considerations also. The elections are looming large on the horizon and people consider any stick good enough to beat the Congress with. People outside the Congress are trying to whip up passion against the measure just because the elections are coming. They want to use it as a weapon in the election fight. It is therefore meet and proper that we should consider each provision of the Bill as coolly as possible, thrash out every issue threadbare, so that people may be able to see the Code in the proper light without the mist that now surrounds it. It is obvious that when we come to the clause by clause discussion, most of the superstitions and suspicions will be removed and controversial matters may be settled by mutual agreement and nothing will be there which will offend public conscience and public morality.

With these words, Sir, I oppose the amendments moved and support the clause

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

Seth Govind Das (Madhya Pradesh) : First of all I want to say that it would have been very good if.....

Shri Hussain Imam (Bihar) : On a point of information, Sir; Will the Hon. Minister of Works, Production and Supply, who is now here, tell the House about the tragedy of the Delhi clock tower? The Delhi clock tower has fallen.

Some Hon. Members : This is not the time.

Seth Govind Das : You can ask that after the speech, not in the middle of it.

Mr. Deputy Speaker : It is possible some hon. Members are anxious to know what has happened. If the Hon. Minister has any statement to make he may do so after Seth Govind Das concludes his speech and we shall have an opportunity of having more information about the tragedy.

The Minister of Works, Production and Supply (Shri Gadgil) : I have learnt about it only an hour ago. Secondly, I am not

administratively responsible for what has happened in Delhi. The property known as the clock tower is managed by the Delhi Administration and probably by the Delhi Municipal Committee. But if it is the desire of the House that it should know some facts I shall try to contact the proper authority and at about five I may be able to give some information.

Mr. Deputy Speaker : Yes. The hon. Member may continue his speech.

***Seth Govind Das :** **(English translation of the Hindi speech)*
Sir, I was submitting that it would have been very good if the Hon. Minister has not introduced this Bill at the present time. When I say this, it should not be inferred that I want to stick to the old customs or want to follow all that is given in our *Smrities* and *Vedas*. I have some knowledge of Sanskrit and I love my Indian culture, therefore, as far as *Smrities* and *Vedas* are concerned, they are not of the same opinion on every subject. If one *Veda* or *Smriti* says one thing regarding a particular subject another *veda* or *Smriti* says another thing regarding the same. We have always been lover of knowledge. Knowledge has always been given first place in our history and culture. We have admitted the fact that *Kalabheden dharma bhedah* i.e. Religion changes according to times. I admit that we need reforms and reforms should also be brought about through legislations. I remember the days when Raja Ram Mohan Ray pleaded the case for the abolition of *sati*. Even in those days there were people in the country who were in favour of *Sati* custom. I also remember those days when Iswarchandra Vidyasagar advocated the cause of widow remarriage and it was strongly opposed. Enough has been said regarding Sharda Act. I admit that child marriages have been prevented to a large extent due to the Sharda Act and to a greater extent this Sharda Act has tried to put an end to this bad custom of ours. Therefore, I admit that we have always been rational in our outlook. We should not follow the *Vedas* and *Smrities* blindly and we need laws to reform our society. But I could not understand one thing which our Minister said yesterday. He laughed at those persons who suggested that this Bill should be made applicable to the entire society as a whole. If we want to get our different societies knit in such a way, if we want to create such a society where there should be no class or caste distinction or so much difference as at present, then I submit that we need such a law

* P. D., Vol. VII, Part II, 7th February 1951, pp. 2545-49.

which may be applicable to the entire society without any distinction. Yesterday, the Hon. Minister made certain observations which in my opinion do not befit him, it is just possible that I may be wrong. I thought that he became somewhat irritated and lost his temper or he felt that we were putting obstruction in the passage of the Bill. But this is not the thing. This is the opinion of the most of the people, and I am one of them, that it would have been far better had this law been made applicable to the entire society without distinction. According to the Hon. Minister, it will be a matter of great pleasure if such a Bill could be introduced within two days. It will be very good if this Bill could be got passed within half an hour. It was not a good thing for our Hon. Minister, holding such a responsible post, to laugh at those people who hold different opinions than what he holds. It has been clearly stated in our Constitution, it may not be in the chapter relating to fundamental rights but it is in the preamble chapter:

“That State shall endeavour to secure for the citizens a uniform Civil Code throughout the territory of India.”

It has been clearly stated in our Constitution. The Bill which has been presented before us today is opposed to this clause. We have suffered a lot as a result of this class and caste distinctions. After attaining independence, we framed our Constitution and this is the first social Bill which has been presented before us after the passing of the Constitution. We should have incorporated some of the ideals in this social Bill and that could have been easily done., if only this was to be applied to the entire society. If some clauses of this Bill are deleted and the good ones selected then a Bill could be prepared which could be applied to the entire society as a whole. Then, the people who are opposing this Bill today would not have done so.

There is one thing more and which is quite apparent. There are many good things in this Bill as well. I would rather say that it abounds in good things and the points of disagreement are very few. There is one important point in the fundamental things, which have been laid down in this Bill. One of the disputed points is that women should also be given the right of succession to property. It is easy to say a thing as my friend Shri Syamanandan Sahaya has done, I hold him in great esteem, by declaring that we already treat women as masters of our household. I would like to tell him that that is akin to the maxim “the safe is yours but let the keys remain with me.” We have seen and are aware of the consequence’s resulting from non-existence

of the rights of women to property. We know of the lives that many women had to lead. Will Shri Syamanandan Sahaya or those who are of his opinion deny the fact that many a chaste and respectable women belonging to wealthy families had to lose their prestige and status on account of having been left without property ? As far as I am concerned, I have, therefore, no difference of opinion about women's right of succession to property. The question is whether they should obtain share in the father's property or in the father-in-law's.

Giani G. S. Musafir (Punjab) : There is no objection to father-in-law's.

Seth Govind Das : So this is a big question. Today our system of marriage is such that the woman goes to her husband's place. There was also a time when there existed no system of marriage in the society. The story of Uddalak and Shwetketu in the Mahabharata clearly shows that there was a time when no marriage were held. Then came a period of matriarchy, where the husband used to go to the wife's place and the female child among their children inherited the property. That system still prevails in some places, in Malabar for example. Then the period of patriarchy came. Most of our social structure today comprises of patriarchy, not matriarchy, and how far would it be proper to make a woman inheritor of father's 'property' in such society is a controversial matter. I would like to impress that so far as the women's right of succession to property is concerned that must be there, but that should exist in such a manner that an unmarried woman should be entitled to it at her father's place and a married one at her husband's.

There are also some other clauses of this Bill about which there may be a difference of opinion. So far as this Bill is concerned. It incorporates two things. First, various existing laws have been amalgamated. Secondly, some clauses for the purpose of social reform have been added. As I had just said, it would have been in the fitness of things had this Bill not come up. When our President Dr. Rajendra Prasad was the President of the Congress, he had pleaded for not presenting such a Bill and so according to him it had better not come up. But now it has been carried so far that if it is withdrawn at this juncture, various interpretations shall be forthcoming for that. The next election is before the people. I do not give very much importance to the elections and believe that the Congress is not so ineffectual that if the present Bill is passed and people are told that the Congress has done it, the Congress Party would be defeated. But if the Congress

is such a trifle that it can thus be defeated. I would say that the earlier it is defeated the better. So I differ from those who keep the elections before them and proceed with that point in view. I have recollections of 1923 and 1926 when the Swarajya Party went to polls for the first time. I was a candidate for the Central Assembly from the Zamindar party and it was being said that the Congress and zamindars were far apart, that zamindars would not vote with the Congress; but still nobody contested my seat. After that I stood again for the Council of State in 1925 and then too it was doubted whether the voters of the Council of State would vote for the Congress. Sir Manekji Dadabhai and Sir Hari Singh Gour opposed me, but I got three-fourth of the votes. Therefore, I do not consider the Congress to be a touch-me-not institution which may wane into a defeat if we pass such a Bill, which thought may continue to give us a constant fear of elections. I am of the opinion that if we are in favour of this Bill and if our leader, our Prime Minister, considers that it should be passed, it would be a mistake for us not to pass it for fear of elections. It is a different thing if we do not want to pass it. But if we do not pass it for fear of elections, there would be nothing worse than that. And I would say a word to those also who would not like to see it go through for fear of elections. If the Bill is not passed now, they shall find people saying that if the Congressmen were returned they would do such things as were not there even in the Bill. Such horrid pictures would be drawn before the people the like of which we cannot even imagine today. So we have not to deal with this Bill for consideration or fear of election. We have to deal with it on its merits. In this connection, I would reiterate before the Hon Minister what I have just said, namely, that the Bill has two parts—one of amalgamation and the other of social reforms. We are utterly opposed to many provisions of social reforms. I want that under the prevailing circumstances in the country all such provisions should be left out because their incorporation is inopportune. Things over which there is divergence of opinion should be excluded and those of amalgamation may be taken up. I make considerable distinction between these two things and wish the Hon. Minister to give sufficient heed to this suggestion of mine. I want that so far as amalgamation is concerned we should take that up as also the provisions with which we are not at variance and these provisions may be passed. Those provisions that are controversial and with regard to which there is going on a campaign

in the country should be left out. We must let the next election take place when representatives would be elected on adult franchise. If at that time we think it necessary to bring up the provisions concerning social reforms, we may move them as amendments to this present Bill and pass them. Such an approach will cover both the things. It would bring about an amalgamation of the laws and with that we would also avoid the controversial points.

One thing more should be done. As my friend Shri Jaspat Roy Kapoor said, its application should not be made obligatory on all people. Of course, such social reforms should be brought about through legislation ; but it is imperative to mould public opinion in their favour. It would not be ill-advised to make it applicable only over those who accept it and not try to make it binding on the entire population. Therefore, I would again submit that it were better for this Bill not to have come up before us at all. I am also of the opinion that in keeping with the ideals of our Constitution if we could make this Bill in the times to come applicable to the entire society, according to the amendments moved by Shri Jaspat Roy Kapoor or others we must endeavour to make it such. Along with this we should also endeavour not to make it applicable compulsorily over the people. It may be applied to those people only who accept it, or else in the existing conditions we may leave out its controversial portions and so far as the matter of amalgamation goes, we may do it in as much as we are unanimous about it.

***Shri Hussain Imam :** Sir, today I also want to speak in my own language as our Seth Govind Das has delivered a good speech.”

Prof. Ranga : Why not speak in English, so that we may follow ?

Shri Hussain Imam : In considering the Hindu Code Bill, ordinarily, I would not have taken part in the debate, because it is a measure applicable to my sister community and as such they should have the right to have whatever they wish for themselves.

Shri Tyagi (Uttar Pradesh): But the amendment covers you.

Shri Hussain Imam : That is the reason for my rising to speak. Some of my hon. friends are anxious to bring us under the purview of this measure. Well, there would have been no objection on our

part to come under a common code had it been in advance of our own system. But my complaint is that it is very much backward ; and you want to draw up and bring us down to the level to which you have brought yourself down. I, therefore, wish to be excused from coming down to your level.

I may mention that the Hindu Code Bill has a very long history behind it. At one stage of it I had occasion to participate in the Committee on Hindu Law that was appointed in 1944-45. As such I have my sympathies with those who wish to advance the cause of the weaker sex. I believe that no country or society can advance if it has got submerged and suppressed people in its fold. It is very necessary that everyone should have equality before the law and in the matter of inheritance and other things. But it would be idle on our part to ignore the feelings of others. Feel as I may for myself. I must also realise what others are feeling, and as you, Sir, very poignantly pointed out, it is very necessary that there should be no dictatorship.

The Hon. the Law Minister in his speech in the Constituent Assembly, on the memorable day we completed the drawing up of the Constitution, said as follows :

“It is quite possible in a country like India—where democracy from its long disuse must be regarded as something quite new— there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater.”

I commend to him his own speech and ask whether it would not be dictatorship on the part of this house to dictate to the thirty-six crores of people of India to come under a law compulsorily, just as the old orthodoxy was denying the right of going forward to the more-advanced members of society. It is a dictatorship which a minority is going to exercise on a vast majority. I wish to tell my sisters and the reformist brothers that they must take heart. In everything there is a fair way of fructification. They have the whole field before them. I find that orthodoxy is not only not aggressive, but is on the defensive— is putting on the garb of reformists to fight its retreating battles. It is fast losing its momentum. We have the eternal dilemma of an irresistible force meeting an irremovable mass. But that mass is becoming every day lighter and lighter and its roots are getting uprooted

every day. Therefore, this orthodoxy will not remain adamant, as it has been in the past. But is it necessary that the reformist should become aggressive ? Should they play the game of the old orthodox people and try to dictate what they feel to be the best to people who do not regard them as the best but as the worst ? Why should you do that ? That is the question and in that question my community also joins.

We feel that our system of law, and our system of distribution of wealth is more democratic and more socialistic and more, if I may say so, akin to the communistic, than the system which is proposed in this piece of legislation before us.

I think the major amendments to clause 2 can be divided into three categories. Firstly, some of the amendments, notably amendment Nos. 13 and 14 of the Consolidated List want to increase its applicability. Amendment No. 13 of the supplementary list also. Then there are certain amendments, like No. 18 which wants to decrease its applicability. Then there is the third category, which wants to restrict its applicability to only those who wish to come under this. I think it is a very good media which has been suggested by Shri Jaspat Roy Kapoor and deserves the most serious consideration of this House— whether it would not serve our purpose by having a better code than the reformed Code which Dr. Ambedkar has brought before the House. He had to give some concession much against his wish.

I wish to state a few facts for the consideration of the House. These facts are that the Bill sought to be amended by Dr. Ambedkar is so materially different from the Report of the Select Committee that we should in common justice recirculate these amendments and get the opinion of the country whether they wish to have this in the form in which they have been brought or not, and there is no time for that. This House is under dissolution. It will last probably, if things do not move in an untoward direction—which may quite possibly happen on account of the war—for a few more months. Now, I ask my lady friends and reformists whether it would not be better for them to take up the challenge of the orthodoxy now. According to Shri Jaspat Roy Kapoor's amendment it is only a question of how far you are going to get the co-operation of the people to come and be under this Act. There is no occasion better than the election. In the election booth all the adult population of the country will be coming. If you have a system of registration running side by side with the

election booth and have a register in which every voter will put in his thumb impression to indicate that he is willing to come under this Code, you can get the mandate of the people. Then you can confront orthodoxy and come and say that a vast majority of the country wants this reform, orthodoxy must go back and the day has been won for the reformists. But you do not do it. If you do not seriously convert the people to your idea, why do you ask that this body should get the odium of thrusting something on the people which it is professed they do not want and which you are unable to prove they want.

I therefore suggest that if the Hon. the Law Minister is not prepared to accept the amendment of my hon. friend Mr. Jaspat Roy Kapoor *in toto*, he may at least follow the example set in the *Shariat* Act of ours where parts of it were made compulsorily applicable to all but parts of it were reserved for only those who would come and get themselves registered. This is the second suggestion which I wish to make to the Hon. Minister.

Shri J. R. Kapoor : Will the hon. Member please say which are those parts ?

Shri Hussain Imam : I wish to state that there are certain parts to which very serious objection has been taken, notably by you, Sir, about the distribution of property to the daughter. If you want that this portion should not apply to all, you can make it a provision of this nature, namely, that this part—Chapter IV—may apply only to those who wish to come into it.

I would also mention the possibility of the grave dangers which this amendment of Dr. Ambedkar on the question of property has brought in. My valued friend Pandit Thakur Das Bhargava suggested that the girls should get a share while they are unmarried and when they get married they should be entitled to the husband's property in the father-in-laws's house. But you must not forget the divorced women. How has the modern *Manu* provided for them ? Dr. Ambedkar has not provided for the divorced women who are deprived of the share. He has provided for the share to remain permanently for the girl—half a share for the unmarried girl and quarter of a share for the married girl. But Pandit Thakur Dasji has suggested no share for the divorced woman. Under Dr. Ambedkar's rule she will continue to have a quarter of a share. But Pandit Thakur Dasji would deprive her even of that quarter share because as soon as she gets married she will have no share.

Pandit Thakur Das Bhargava : According to me she would be entitled to the rights of partnership in the property of the new husband.

Shri Hussain Imam : If she does not remarry ? I therefore think that another danger of the provision made by Dr. Ambedkar is that it might lead to immorality—the provision that on marriage a woman will lose half of her property and will be entitled only to a quarter of the father's property. A rich girl would never marry a poor husband.

Dr. Ambedkar : Why bother about the rich ?

Shri Hussain Imam : As long as you have not changed the system and do not go to the Moscow-Peking axis of my hon. friend Brajeshwar Prasad, you have to care for wealth and capital. When you come to that day you will no longer bother about this.

I was rather surprised that Dr. Ambedkar who is a born democrat should have made disparaging remarks about the electorate. The 'electorate with all its ignorance is the only touch-stone by means of which we can test democracy. If that is removed, democracy will become meaningless, lifeless and only an effigy of democracy. Because, what did Hitler do ? He had elections, but a system was evolved by means of which elections were made...(AN *hon. Member* : Easy)...not easy, but they were made only a cloak to cover the dictates of the dictator. The same thing will happen if we accept this dictum that the electorate has no right and the right is reserved to the Members of Parliament alone to decide whatever they like and in whatever manner they choose to do.

I would again mention one fact, not the competence of this House— I would be the last person, having been for twenty years in the Central Legislature, to question the competence of this Legislature—but would it not be better to leave a measure of this nature to the popularly elected representatives who would come to this House with the direct mandate of the electorate ? I am suggesting this as a method of finding out the will of the people. As long as we pay at least lip service to democracy our ultimate masters and the arbiters of our fate are the electors. This is going to affect all. I wish to warn the House that as against the Bill as reported by the Select Committee, as a result of the change of the Constitution, we are going to hit each and every individual property. Even a small farm of an acre of land is not free from the ambit of this new Bill, because land is now brought in under the purview of the Central Legislature, whereas what the Bill as reported by the Select Committee affected was only fifteen

to sixteen per cent of the population. Is it proper, is it democratic for you without going to a Select Committee even to so change the nature of the Bill that it will affect hundred per cent, of the citizens of India—because Land has now been brought into the purview of the Central Legislature? I very respectfully beg to suggest that it is not proper for this Legislature, keeping self-respect in view, to go so much forward without even the formality of having a Select Committee to go over it. I know that now it is no good crying over spilt milk. But I am bringing all these arguments in favour of making this Bill elective. I do not say, having advanced so far and having made so many mistakes in the past, that you should now brush it away. But at least you should have the decency to say that you will allow the people to have their choice whether they wish to be under this Act or not. This choice may be either general as my hon. friend Mr. Jaspat Roy Kapoor has suggested, or it may be restricted as I am suggesting now for the consideration of Government. Government

[MR. SPEAKER *in the Chair.*]

have got ample time according to present estimates. The Bill is not going to be proceeded with immediately now. Therefore it is possible
5 p.m. for Government to reconsider their position. In all humility I would appeal to Government to give if their best consideration and make it elective in full and if that is not possible for having it at least in part made elective and not compulsory. Otherwise it will be dictatorship and not democracy.

Mr. Speaker : We will now take up the half an hour discussion.

Shri Gadgil : A request was made by hon. Members to let the House know about a certain accident that has happened in the morning in the Chandni Chowk.

Mr. Speaker : I think it had better be taken at 5-30 instead of now.

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***HINDU CODE—contd.**

Clause 2.—(*Application of Code*)—*Contd.*

Shri Naziruddin Ahmad (West Bengal) : I have a point of order....

Shrimati Durgabai (Madras) : On what subject, may I know, is the hon. Member raising his point of order ? There is no subject before the House on which the point of order could be raised. First of all the motion should be moved.

Shri Sondhi (Punjab) : Who are you ? You are not sitting in the Chair (*Interruptions*).

Shrimati Durgabai : The motion must be made first.

Mr. Deputy Speaker : The business before the House is further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee. Clause 2 of the Bill is under consideration.

Shri R. K. Chaudhari (Assam) : Before anything is said or done I would earnestly appeal to the House through you, Sir, that there need not be any unnecessary excitement. I am constrained to say that the conduct which has just now been shown by Shrimati Durgabai is far from such and is...(*Interruptions*).

Further more I wish to know whether the attention of the Government has been drawn to a Press news published yesterday, namely, that even if this Bill be passed the President may withhold his assent and so far..... (*Interruptions*).

Mr. Deputy Speaker : Order, order.....

Shrimati Durgabai : May I give an explanation since the hon. Member has referred to me ?

Mr. Deputy Speaker : Not while I am on my legs ...

Shrimati Durgabai : You must give me an opportunity to answer what the hon. Member has said (*Interruptions*).

Mr. Deputy Speaker : Order, order. The hon. Member who advised another hon. Member not to be excited is himself excited. One should sit on the right and the other on the left.

So far as the reference to the President is concerned his name ought not to be canvassed for the purpose of this Bill one way or the other. Rule 159 (vi) says that a Member while speaking shall not use the

President's name for the purpose of influencing the debate. The President's name ought not to be referred to here at all.

Shri Kamath (Madhya Pradesh) : Not on a point of order, but on a point of propriety, when such a measure as the Hindu Code is before the House, is it quite proper for the Hon. Law Minister to have such a big basket before him ?

Shri R. K. Chaudhari : This does not fit in with the serious topic before the House. I want to know if it is a fact that the President will address this House on the Hindu Code.

Mr. Deputy Speaker : No reference to the President can be permitted irrespective of anything that might have appeared in the papers. Now, what is the point of order of Mr. Naziruddin Ahmad ?

Shri Naziruddin Ahmad : *rose*—

Sardar B. S. Man (Punjab) : Before the hon. Member makes his point of order, may I say, Sir, that you have made certain observations previously in the debate that in your kindness you show certain concessions to lady Members here. Now when we are going to discuss this Bill may I request that henceforward you will treat hon. lady Members and men Members on an equal footing and no concessions will be shown to lady Members ? It is high time for them to make up their mind either to have the concessions or to have the Hindu Code Bill (*Interruptions*).

Shrimati Durgabai : I would like the Chair to give a ruling. It was a fact that the Chair said sometime ago that special concessions were sought or asked for by the women Members and it is a fact that the women Members had emphatically protested that they did not want any special concession at all. Therefore, the hon. Member is quite wrong in saying what is not true.

Mr. Deputy Speaker : I am fully aware that lady Members do not want any special concessions for themselves : it could not have been their intention. If therefore, I had made any such remark I thought that it would be taken in good humour and it was not my intention to cast any reflections. I know very well that no lady Member has ever been in need of any concession or indulgence. So far as I am concerned I have got both sons and daughters, and therefore, I shall try to be absolutely just. Now what is the point of order ? With respect to points of order I may remind hon. Members that they may state their points cryptically without any arguments, unless I want some elucidation with regard to them. I hope hon. Members will bear this in mind.

Shri Naziruddin Ahmad : I shall state the point of order and elucidate it very briefly just to make it intelligible.

Mr. Deputy Speaker : If I fail to understand I will ask the hon-Member.

Shri Naziruddin Ahmad : My point of order concerns the applicability of the Bill to the former Indian States, some of which are now known as Part B States and some others have been incorporated in Part A States. The whole point is directed towards that question and I am directing my mind to that.

Hon. Members : What is the point of order ?

Pandit Maitra (West Bengal) : Is it the hon. Member's point that the Bill has not been published to them ?

Shri Naziruddin Ahmad : Yes, the Bill has not been published to them.

Mr. Deputy Speaker : I have understood the point of order.

10 A.M.

Shri Naziruddin Ahmad : I have to state a few facts.

Mr. Deputy Speaker : "Few facts" are not necessary so far as this point of order is concerned.

Shri Naziruddin Ahmad : There are rulings of the Chair on this point. I wish to draw your attention to this point which was raised by Mr. Sarwate on the 24th February, 1949 ...

Mr. Deputy Speaker : The House is on clause 2. Is this relevant so far as clause 2 is concerned ?

Shri Naziruddin Ahmad : Yes, clause 2 will also apply to the former Indian States.

Mr. Deputy Speaker : The hon. Member knows too well that the scope or the extent of the operation of this Bill is governed by clause 1. Clause 1 (2) says :

"It extends to all the Provinces of India."

This point of order may be relevant as to whether in this unrestricted manner it ought to be allowed, or whether, as it was originally framed, it does not apply under the Constitution. There may be many reasons for and against, but the point of order may be raised at that stage, not at this stage. Now we are going into general considerations : if they do not apply to Part B or Part C States, we will restrict them when we come to clause 1.

Shri Naziruddin Ahmad : It will lead to inconvenience ; that will no doubt come formally, in due course : we should not be made to wait till that time.

Mr. Deputy Speaker : I have given my ruling. The hon. Member does not say that this clause 2 will not apply to any State whatsoever; if it applies even to a small village in a single State in the whole of India we shall proceed with clause 2. When we come to clause 1 we shall eliminate all the others where it ought not to apply under the Constitution.

Shri Naziruddin Ahmad : The difficulty is this. If the Members belonging to the States know before hand that the Bill will not apply to them, they will not trouble themselves about the matter and discussion will be shortened. But on the other hand, if they are in the dark as to whether it will apply to them or not, they will have to partake in the debate. So, in order to clarify the situation we ought to know where we are and where they are.

Mr. Deputy Speaker : The hon. Member knows too well that we come back, after exhausting all the other clauses, to clause 1. Any hon. Member who is a representative of the States may proceed on the footing that it will apply—he may do so in the first instance. Then he may make an effort along with Mr. Naziruddin Ahmad to get it out. There is time enough.

Shri Syamnandan Sahaya (Bihar) : Before we proceed with the Bill, I think the House is entitled to know the procedure which has been adopted from the papers we learn that only two parts of the Bill, concerning marriage and divorce, will be taken. It will be desirable for the Hon. Minister to explain the position so that the House may know in what direction we are proceeding and how this matter is ultimately going to be decided. That is one point to which I want to draw your attention, Sir, and the attention of the House. The other point to which I want to draw your attention and the attention of the Hon. Minister and of the House is this. Now the appearance of the Bill seems to be such that it is difficult to recognise it. As a matter of fact, the Hon. Law Minister himself, who is the Mover of the Bill, has sent in a very large number of amendments some of which reached us even yesterday. You will appreciate the importance of a Bill like the Hindu Code. You have also seen the seriousness that is attached to this Code by the Members of this House. We are really in a difficult position to find out suddenly what the amendments are, what the implications of those amendments