

moved at later stages, for once again hon. Members will have to apply their minds and

Pandit Malaviya : But in view of the special circumstances that exist now...

Mr. Deputy Speaker : Of course, during the course of the discussion, for the purpose of bringing about an agreement or some such thing, an amendment may be moved, and in that case the matter will always be considered. But with respect to new amendments I suppose the House will agree that for the reason that they will throw open the discussion once again, they should not be allowed.

Khawaja Inait Ullah (Bihar): Would not an amendment that goes against the Constitution be out of order ?

Mr. Deputy Speaker : The hon. Member may refer me to the points that are considered as out of order or beyond the scope of the House at the time the matter arises.

Shri M. Naik (Orissa): If an amendment moved stands in the names of two or more Members, will that amendment be taken as having been moved by only one Member or by all the Members who have given notice of it ?

Mr. Deputy Speaker : I shall take it that all of them have moved it.

Shri M. Naik : What happens if the hon. Member who moved it remains absent now ?

Mr. Deputy Speaker : I shall adopt the safer procedure. It is true that more than one Member has given notice of an amendment, and if he is not in his seat, it is open to any other of the hon. Members to move it. The question is, if all the Members are in their seats, whether all of them are to be taken to have moved it. By way of abundant caution we may say that all of them have moved it so that ultimately when there is any question of withdrawing that amendment and the Member who moved it is not in his seat, any of the other Members can withdraw it.

Shri R. K. Chaudhuri: If I want to oppose any of the new amendments now moved when can I do so?

Mr. Deputy Speaker : Whenever he rises and is called upon to speak. He is entitled to speak on all the amendments. (*An hon. Member:* Of one category ?) We have finished all categories. So far as clause 2 is concerned, I have allowed hon. Members to move all the amendments. Tomorrow I shall try to group them for purposes of

convenience according to their substance. The clause may be discussed as also all the amendments and amendments to amendments.

Shri J. R. Kapoor : You may direct the office to circulate to us a consolidated list of all the amendments moved today as also on the previous occasion, so that we may have in a simplified form all the amendments for ready reference.

Mr. Deputy Speaker : Though there are various lists of amendments, what is done is that they are put consecutively and, therefore, no further arrangement is necessary. As regards circulating the amendments moved today, I thought hon. Members would have noted them as I have done.

Dr. Ambedkar : I have also noted them.

Shri J. R. Kapoor : Amendments to the same part of the clause may be at different places and for the sake of convenience it is better they are put in one place.

Mr. Deputy Speaker : I shall ask the office to circulate a list containing the numbers of the amendments moved instead of once again repeating the amendments.

Shri J. R. Kapoor : It should be sub-clause by sub-clause.

Mr. Deputy Speaker : Hon. Members have left their homes far away and come over here for parliamentary work. I do not believe the office should do it. Hon. Members should do it. Hon. Members may take one view and the office may take another view and does the hon. Member also want the Secretary to speak on his behalf in this matter? As regards Pandit Malaviya's amendment I shall allow it as an exception. With respect to other matters from tomorrow I would insist as a rule that I must have a copy of the amendment as also the Law Minister. Today perhaps hon. Members may not have had sufficient time to think about their amendments. Pandit Malviya may read out his amendment so that we may note it down.

Pandit Malviya : I beg to move : to clause 2, add the proviso :

“Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to anyone unless a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him.”

Shrimati Renuka Ray : Sir, there are two points which I want to raise. It is a dilatory motion. The hon. Speaker has given a ruling during the last session....

Mr. Deputy Speaker : Hon. Members ought not to start off straightway, unless I call them. It may be a valid point...

Shrimati Renuka Ray : It is a point of order.

Mr. Deputy Speaker : May be. The hon. Member should first stand up in her seat and I must call her.

Dr. Ambedkar : It might come under clause 1.

Pandit Malaviya : It is a matter of application and not a matter of extent.

Mr. Deputy Speaker : Let it remain here as it is.

Shrimati Renuka Ray : Sir, there are two points which I want to raise. First of all this amendment which has just been dictated to this Parliament—a procedure which we have never known before—is of a dilatory character...

Pandit Malaviya : Sir, I object to the word dilatory.

Shrimati Renuka Ray : This amendment is of a dilatory nature and the Speaker has given a ruling last time, if you will remember, on this. Secondly, I would like to know whether this procedure of dictating amendments to the House, while the Parliament waits is going to be a precedent which is going to be followed hereafter.

Mr. Deputy Speaker : The hon. Member too well knows that so far as dilatory motions are concerned, it is open to the House to discuss the amendments moved and throw them out, if the House is not inclined to accept them. I am prepared to adopt the advice of the hon. lady Member. I have not considered whether it is appropriate or relevant or irrelevant. I will take time to do so and if at any time before put it to the House. I find it is best to say that it is not relevant and therefore does not arise. I will do so. I will reserve my judgement so far as that is concerned.

As regards dictation, we have been accustomed to taking small sentences but I never expected it to be a long sentence and therefore I submitted myself to his dictation. Let us now go on. Let me place this before the House.

Amendment moved :

To clause 2, add the proviso :

“Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to any one unless

a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him.”

Pandit Malaviya : May I make a request ? It is a very serious matter which we are considering....

Mr. Deputy Speaker : The hon. member will have an opportunity...

Pandit Malaviya : I wanted to draw your attention to the fact that unless we are all careful enough to use language with a certain amount of restraint we are likely to waste the time of the House and waste our energy. I should like to take objection, with your permission, to the use of the word dilatoriness for this reason :one Member may have one view, another may have another view. But if we feel that a certain thing should be done and if we wish to say it, the task becomes rather difficult if it is said that we are dilatory. I think we should be careful in this matter.

Mr. Deputy Speaker : I have appealed to hon. members, the same appeal I will repeat: hon. Members ought not to be too sensitive. “Dilatory” is an absolutely parliamentary word. Hon. Members may be anxious to get through this measure. It is not merely throwing any slur on hon. Members—there are some dilatory motions and there are some motions of substance. Therefore, it is quite a parliamentary expression. But I will appeal to all sections of the House. (We are engaged in a very holy cause.) This is a question of Hindu Law and the questions before us relate to marriage and other things. Let us address ourselves with all seriousness to this problem. We can iron out the differences and not only create a meeting place here but also give a lead to the rest of the country which is the intention of Parliament to give so far as this matter is concerned. Therefore, I hope the best of cheer will prevail here and with good humour we will get into the clauses. Though apparently any particular amendment may be unpalatable at the beginning, let us hear and reserve our judgment. That is my humble appeal to all sections in the House. No heat ought to be allowed to enter into this controversy. Let us keep our heads cool.

Shri R. K. Chaudhuri : May I ask your advice, Sir.

Dr. Ambedkar : Why do you seek advice so often ?

Shri R. K. Chaudhuri : Just now you were pleased to address Shrimati Renuka Ray as madam. Has any Member got the right to be addressed by the Chair like that ?

Mr. Deputy Speaker : I am sorry. I would like to be corrected. I do not like any Member to be addressed by any other Member in the first person. Similarly I will not address any Member directly. I shall try to be careful, but these things need not be pointed out to me. Now let us proceed. We have had too much of advice.

The Minister of Home Affairs (Shri Rajagopalachari) : I take it, Sir, that in the last amendment the question of order is open ?

Mr. Deputy Speaker : On all amendments. I merely placed that amendment for purposes of discussion. At any time it is open to the House or to me to consider it.

Now, I shall give preference to those gentlemen who have moved the largest number of amendments, and so on in that order, and ultimately to those who have not moved any amendment at all and who want to speak. Those hon. Members who have already spoken on this will get a chance, if necessary, in the end.

Shri Rajagopalachari : May I suggest one thing ? Those who promise and who believe they will make short speeches should be given preference.

Hon. Members : No, no.

Shri Rajagopalachari : And they may give way to others afterwards. If a member who wants to make a long speech is cut out by another we need not sympathise, but it is unfair that those who wish to speak for five minutes should be cut out by long speeches.

Mr. Deputy Speaker : The suggestion that is given is certainly good, but I feel one difficulty. In the matter of resolutions of general discussion on a particular Bill, I can ordinarily give preference to those who want to speak for a short time so that there may be a number of members speaking on it. But with respect to amendments, hon. Members who have not tabled any amendment at all may occupy the time of the House.

Shri Rajagopalachari : Without prejudice to other considerations I am suggesting it. Because, a closure may come at any time and those who may have something very important and brief may be cut out.

Pandit Thakur Das Bhargava : How will we know beforehand whether a Member will make a long speech or a short speech ?

Shri Rajagopalachari : This is a battle of the long and the short.

Mr. Deputy Speaker : We should only have a general indication that all Members will make it, as short as possible.

Khwaja Inait Ullah : I wish to oppose some amendments, which were moved in the last session.

Mr. Deputy-Speaker : Nobody prevents him.

Shri Bharati (Madras) : His difficulty seems to be in regard to what you, Sir, have stated that those who have moved amendments will get preference.

Mr. Deputy Speaker : I have not said that I am going to cut it short. All will have an opportunity unless and until the House itself puts a ban upon them. I only indicated that hon. Members who have moved a number of amendments must be given preference. Others may also speak.

***Dr. S. P. Mookerjee (West Bengal) :** *rose*—

Mr. Deputy-Speaker : Dr. Mookerjee—though he has not tabled any amendments.

Dr. S. P. Mookerjee : I happen to be one of those Members. . .

Shri Rajagopalachari : It goes against all rules. .

Dr. S. P. Mookerjee :who have not tabled any amendment, nor have I, Sir, spoken on this momentous measure at any time since the Bill was introduced.

Shri Naziruddin Ahmad : He was a Minister at the time.

Dr. S. P. Mookerjee : Sir, we have met here after about seven months to take up consideration of the Hindu Code Bill. Many things have happened during this period. If I may say so, it is a matter of some satisfaction that Government has kept its mind open and has volunteered to make amendments in order to meet criticisms which may be made either in this House or outside.

Shri Gadgil : Reasonable.

Dr. S. P. Mookerjee : I believe never in the history of our country has a measure given rise to so much criticism in support or against it.

Shrimati Renuka Ray : What about the abolition of *sati* ?

Mr. Deputy Speaker : No, hon. Member need interrupt another hon. Member. I already said that it is likely to generate heat. Whatever •is not to the taste of any hon. Member ought not to be imposed upon any other hon. Member.

Dr. S. P. Mookerjee : The clause we are discussing now is of a general character. It raises the question of the applicability of the entire Code and from that point of view I should like to make some general observations which will be of a relevant character.

The question has arisen as to whether this Code should be made applicable to Hindus as such or to such other classes of persons including Sikhs, Jains and Buddhists as have been mentioned in the amendment moved by the Hon. Law Minister. The question has also been raised whether the Code should not apply to all citizens of India. I know that this matter was raised on the floor of this House in February last and I do not wish to dilate upon it very much but I would certainly say that as the Chapter in the Constitution dealing with the directive policy of the State indicates, Parliament under the new Constitution has really been called upon to pass a Code which is to be applied to all citizens—an all India Civil Code. When this bill was started to be discussed, we were working under a different set of circumstances altogether. It is therefore a matter of regret that the new Government even after the Constitution has been passed should proceed with a measure of this description applicable only to one section of the community. It is said that we are a secular State. In fact we suffer very often from a new disease which may be called 'secularities'. How far is it open to Parliament—I am not raising any technical point—but how far is it desirable for Parliament to pass a law which will be applicable to only one section of the community? I know what the reply of the law Minister is, because he dealt with this question in one of his previous speeches. He said that there was no difficulty in formulating an all India Civil Code if the country really wanted it. If that is the answer, then why not let us have such a Code? I doubt very much if some of the provisions which have been suggested in this Code can be proposed to be made applicable to other communities, in particular to Muslims. We are discussing the question of monogamy, I believe it is nobody's case that monogamy is good for Hindus alone or for Buddhists alone or for Sikhs alone. I believe those who are advocating monogamy honestly feel that this system is sound in principle and it should be made applicable to all—if not to all persons in this civilised world, at least to all citizens in India who are liable to be governed under laws passed by this Parliament. Now, why not have a separate Bill dealing only with monogamy and make it applicable to all citizens? What is the objection thereto? The objection thereto may come from quarters to which the Law Minister pointed his finger, I believe Mr. Naziruddin Ahmad.

Shri Naziruddin Ahmad : I am sufficiently troubled with one wife. I do not want two.

Dr. S. P. Mookerjee : The law Minister has got his answer. In any case, if a bill dealing with monogamy is introduced...

Pandit Thakur Das Bhargava : A Bill to that effect has been introduced in this House by me.

Dr. S. P. Mookerjee : If such a Bill is introduced, at least the Law Minister will get support from Mr. Naziruddin Ahmad, but the real reason is that Government dare not touch the Muslim community.

Shri Bharati : Why ?

Dr. S. P. Mookerjee : You make a test.

Shri Gadgil : Wait and see.

Dr. S. P. Mookerjee : I am making a suggestion. Let the Law Minister declare that the Bill will be amended and the portion dealing with monogamy will be applied to Muslims.

Shri Rajagopalachari : Are we to make laws in order to test courage ?

Dr. S. P. Mookerjee : Laws are sometimes made to test the sincerity of individuals and Government and therefore the sincerity and the partiality of the Government including the Home Minister are very much in question today.

Shri Bharati : Not at all.

Dr. Ambedkar : No, no.

Dr. S. P. Mookerjee : I am not going to tread on this question because I know the weaknesses of the promoters of the Bill. They dare not touch the Muslim community. There will be so much opposition coming not from men like Mr. Naziruddin Ahmad but from many others throughout India that Government will not dare to proceed with it. But of course you can proceed with the Hindu community in any way you like and whatever the consequences may be.

Shri Rajagopalachari : Because we are the community.

Dr. S. P. Mookerjee : My appeal to the House and to the Government would be on a somewhat different basis. I do not wish to make my speech very controversial.

Shri Kamath : Why not ? Make it as controversial as you can.

Dr. S. P. Mookerjee : Because I want to create that atmosphere where matters affecting social reform can be discussed in a method of give and take. It is not a Press Bill which the Law Minister is sponsoring on behalf of the Home Minister. We do not want the Police to stand outside this Parliament to help the smooth passage of a Bill dealing with social reform. That does not really help anybody. Any Bill whose object

is to introduce social reform must have the support of the vast majority of the people of the country. I see the Home Minister rising.

Shri Rajagopalachari : I am not interrupting, I am only helping him. My interruption has given a twist to the hon. Member's argument. I was only objecting to the particular argument. I may be entirely in agreement if he proceeds on the other basis.

An Hon. Member : So, you are a supporter !

Dr. S. P. Mookerjee : As the time of retirement from his office is drawing nearer and nearer sense also is dawning upon the Home Minister quicker and quicker. In any case, if we want to have social reforms in this country, we would like to carry as large sections of the people with us as possible.

I do not share this view that parliament has no right to deal with matters of social reform. I know the sacredness of our ancient texts—*Vedas*, *Smritis* and *Srutis*. But historically there were commentators to interpret the great theories which are propounded by the original lawmakers in days of yore. Gradually, the commentators also disappeared and what we have witnessed during the last 150 years is that in many matters affecting social reform Judges including European Judges sitting in distant London and legislators have from time to time come forward and made alterations in the social structure of the country. So it is rather too late in the day for any one of us to say that Parliament should not now have the right to pass legislation which may interfere with the rights and privileges which may be enjoyed by the people of this country under the existing law.

Pandit Maitra : Not this Parliament as constituted at present.

Dr. S. P. Mookerjee : So far as the right of this Parliament is concerned, naturally it is a very delicate matter. For me being a Member of this body it is rather difficult to challenge its jurisdiction, but of course so far as its right to present the will of the people goes, that is a matter which will be decided in the next few months and the people themselves will give their verdict. It is no use either for us sitting on this side or Members of Government sitting on the other side claiming for this Parliament things which may not be actually, honestly and legitimately claimed for this body. But my point is this that today there is a volume of opinion—a strong body of opinion, against some or many of the fundamental features of this Bill. I beg of hon. Members who are supporting this Bill to appreciate the depth of these criticisms. There may be some features in this Bill with which I am in agreement, but

I am trying to look at this measure from the point of view of those who are opposing it either in whole or in part. Just as we may appreciate the depth of the feelings of those who are supporting this measure, so also the depth of feelings of those who are opposing it must be appreciated. How to find a solution ? From the papers we find that for strategic reasons it has been decided to omit the consideration of some portions of this Bill.

Dr. Ambedkar : Strategic reasons ?

Dr. S. P. Mookerjee : A sort of toss is supposed to have been taken. On the one side are marriage and divorce and on the other side is property and somehow marriage and divorce have won the day, and property has been relegated to the background for the time being.

An Hon. Member : Property has won the day.

Dr. S. P. Mookerjee : Is it possible for us on the consideration of the amendments which are now before the House under clause 2 to devise some procedure whereby it may be left open to those who desire to come under the Code to take the fullest advantage of its provisions, and at the same time give freedom to those who do not believe in the sanctity or legality or justice of the provisions to continue to be governed by existing Hindu Law ?

Shri Bharati : That is uniformity.

Dr. S. P. Mookerjee : That is a proposal which I am making in a perfectly relevant manner on the basis of the various amendments which you have ordered to be placed before the House for consideration.

I have been told by some friends that we are liable to criticism for our backwardness in many foreign countries. During the last few days I have been told that some people have come and said that in China they are watching when the Hindu Code Bill will be passed !

Pandit Maitra : In Honolulu too !

Dr. S. P. Mookerjee : In America some people are supposed to be watching as regards the progressive nature of the Indian people in relation to their attitude towards the Hindu Code.

Shri Gadgil : Old *rishis* are watching from Heaven also.

Dr. S. P. Mookerjee : That I consider to be an entirely irrelevant consideration. Let us look at the American laws. I was trying to get some information with regard to the American laws. I find that in 26 different States in America they do not allow marriage between

Americans and Negroes and even they go to the length of indicating the fraction of African blood which will negative any marriage between an American and Negro. In some States marriage between an American and Chinese is prohibited, or a marriage between an American and a Mongolian. In practically all the States there are different marriage laws. Somebody interrupted me just now—what about uniformity? I suppose people of the United States of America are getting on quite merrily and quite well without having complete uniformity of all marriage laws. So uniformity is not the last word on the subject. Uniformity suggests stagnation, deadness...

Shrimati Renuka Ray : *rose—*

Dr. S. P. Mookerjee :and I suppose even Mrs. Renuka Ray has not reached that stage.

Shrimati Renuka Ray : Should we follow America?

Dr. S. P. Mookerjee : I am not saying that you should follow America. I would suggest that we should follow the lead given by our own country and that is the lead which Mrs. Ray should follow and which she has not followed as yet.

That is so with regard to America. Now take again the Roman Catholics. According to their strict law, according to their religion, divorce is not allowed. But in almost all countries they have passed civil laws which allow Roman Catholics to adopt divorce if necessary. But they have not touched their religion. They have allowed that to remain separate, but those among the Roman Catholics who desire to be governed in accordance with the civil laws, it is open to them to do so. Well, Dr. Ambedkar is nodding his head. It is difficult to know whether it is in approval or dissent. In any event, he can explain later on—I am open to correction. It is very difficult to get these Jews. But whatever books are available in the Parliament Library I was trying to go through them and I find that a clear distinction is made between the two systems.

Now we are confining ourselves for the present to marriage and divorce. What is it that is worrying the so-called progressives in this country, including progressive ladies?

Shri Kamath : In the House or outside?

Dr. S. P. Mookerjee : They are anxious that there should be a provision for divorce and there should be provision for monogamy. These are the two things on which great stress has been laid. Now let

us take divorce for the time being. You have got your laws passed by the Indian Legislature which permit divorce. At one stage a Hindu could not get married under the civil law, unless he declared that he was not a Hindu. Even that has been changed. A Hindu may remain a Hindu and at the same time contract a marriage which will be according to his taste or that of the couple. Similarly, with regard to inter-caste marriage, you have already passed laws and made such inter-caste marriages permissible, without taking away the Hindu character of the persons involved. Even *sagotra* marriage which is considered to be very revolting by large sections of the people has been recognised by laws passed by Parliament.

Dr. Tek Chand : By the previous Parliament.

Dr. S. P. Mookerjee : By the Legislative Assembly.

These are indications as to how the demand for a progressive development—if I may say so—of marriage laws has been met by Legislatures of this country. This is a subject which is placed in our Constitution in the Concurrent List and I believe Bombay and Madras have passed laws on the subject. (*An Hon. Member* : Mysore as well). There are several States where provincial laws have been passed in some form or another. (*An Hon. Member* : Not in North India) making provisions which are consistent with the wishes of the people. Now the point is this. Why do you wish to make the new laws obligatory upon all Hindus ? You do not wish that the system of divorce should be taken advantage of or must be taken advantage of, by people against the will of the parties concerned. It is an enabling measure and that power is already in existence.

On the other hand, what is the blow that you are giving at the feelings of million of people ? Now you have kept this form of sacramental marriage on paper. You have changed its description from sacramental to “*dharmic*” in order to give it a little oriental and attractive colouring. Of course the substance has not changed. I would ask very seriously those Members of the House who are supporting this Bill : What is it that you are achieving by this proposal ?

So far as sacramental marriage goes, this is an ideology which lies deep-rooted in the minds of millions of people—educated, and uneducated, literate and illiterate—the indissoluble nature of Hindu marriage. That is a matter of religion : it is not a matter of mere body and flesh. Now that is a feeling which lies deep in the minds of millions of people and I have talked to many people not only in my own province

but in verious parts of India. People who have not the remotest chance of taking advantage of any divorce law for various reasons are simply shocked at this idea and many people who are well-intentioned, who are reformers suggest that if there are Hindus in the country today who want to take advantage of the modern system of divorce or want to do away with the religious nature of Hindu marriage, there is enough opportunity given to them under the existing law. If, however, the law has to be revised in order to make them ultra-modern and completely up-to-date, let the law be revised for their benefit. But why do away with the fundamental and sacred nature of Hindu marriage ? What is it that you gain thereby ? I have not been able to get any satisfactory answer to this question. Because it is nobody's case that the new methods which are being laid down will be compulsorily adopted by all Hindus. Obviously that is nobody's case. Therefore, if option is given and if people take advantage of that option, naturally your case is won.

I was told that even in India, as India is today, there are nearly about 90 per cent, among *Shudras* amongst whom some form or other of divorce or dissolution of marriage exists. Very well, then the answer is there. You have got your Hindu Law which provides for the dissolution of marriage in castes and communities where it is wanted. You may say, well, why should about 10 or 15 per cent, of the Indian population stand against these changes ? It is not a question of anybody's standing against the changes. If you want to go ahead or go backwards— whatever it may be—you are welcome to do so. But why drag others who do not believe in you and also who believe in something which is perfectly morally justifiable and in accordance with the highest standards of human conduct ? I have not been able to get any answer to this fundamental question.

We are told very often that our system is backward. I have got with me many extracts from the writings of great Indians and great Western scholars who have admired at the way in which Hindu society has carried on its existence in spite of tremendous odds and difficulties. I am not for a moment saying that all is well with Hindu society. I know where the defects lie. But it is something amazing, something unprecedented that our religion or the great truths on which Hindus for generations past, for thousands of years, have lived, somehow have shown a degree of adaptability and vitality which is hardly to be witnessed anywhere else. What is the reason ? The reason is that whatever truths were propounded by the ancient sages or *rishis*, or

commented upon by those who came after them, were not dogmatic in character. Just as the needs of the society changed, so also the laws were altered. In a huge country like India which is one politically today—and we would undoubtedly like to see that it grows politically, socially, culturally and economically as one solid nation—at the same time, we cannot forget that in this country dwell thousands and thousands of people in various parts, in towns and in villages, men educated, uneducated, men with vision and with no vision and they have built up a structure of their own consistent with individual and social progress and welfare. Somehow that society has developed. Do you find any other country in this world where in spite of tremendous onslaughts the social structure has remained one ?

India passed through seven hundred years of Muslim rule. Now, many theories were propounded during that period which in the context of today's circumstances may appear to be rather conservative. But they were dictated by considerations for the preservation and consolidation of the society as such, and that is how those particular principles were propounded by the masters who were in no circumstance less qualified to speak on matters with which they dealt than any of us sitting in this Parliament today.

From time to time movements came into this country. Reference has been made to Brahmo Samaj to Arya Samaj as soon as it appeared that the society was becoming stagnant, was becoming conservative, some outstanding personality raised his head in this land and drew upon the great sources, the fountain head of Indian knowledge, the *Vedas* or the *Upanishads*, gave their own interpretation and thereby tried to check the growth of the evils of conservatism or the moral decay of the society. But what has happened today ? The ideology for which the Brahmo Samaj stood in this country, say, about a hundred years ago has practically been absorbed by the Hindu society as you call the Hindu society today.

The other day we were discussing about Buddhism, a matter on which Dr. Ambedkar naturally would be the best authority to speak in view of his latest transformation to that religion. But in any case some friends from outside India came, I have something to do with the Maha Bodhi Society. I happen to be its President. (*An Hon. Member*: Are you a Buddhist ?) without being a Buddhist. I am a Hindu and yet I am its President, because I have liberality enough to admit the greatness of Buddhism and yet remain a Hindu. The point I was about to develop

was this. There were friends who came from outside India and they asked with a tone of complaint. "Well, India was the land of birth of Buddha, but India killed Buddhism". I do not wish to go into those controversial matters now. But one point comes out very prominently and that is that when Buddha started preaching his great doctrines India needed Buddha, not only to save the world but to save India. And Buddha succeeded in checking the growth of certain tendencies which were about to destroy the very life-blood of Hindu civilization Buddha has been absorbed by the same Hindus as an *avatar*. Although there were people in India who fought with Buddhism—whether they were right or wrong is a matter into which I need not enter now—but gradually it was realized that Buddhism was a factor of growth on Indian soil and had to be absorbed in Indian culture.

Shri Gadgil : The same thing will happen to the Code.

Dr. S. P. Mookerjee : Far from it. That is a paradise that my friend is creating where he may dwell for ever.

So far as Buddhism is concerned it went and spread in other countries but the tenets of Buddhism were gradually absorbed in Hindu ideology .The reason why I am saying all this is to show that we should never tolerate any criticism from any quarter, especially from a foreign quarter when they say that Hindu civilization or Hindu culture has been of a static nature or of a stagnant nature or of a decadent nature. There is something in our culture and civilization which is of a dynamic character and which has lived from generation to generation. Even when India was a subject nation people were bom in this country, men of our soil, who stood up for great ideals which gave a new lease of life under new and modern conditions to the eternal tenets of Hindu civilization. This code is destroying that fountain-source. I shudder to think of the effect of cause 4. You read clause 4 of the Hindu Code. You are closing the door there. You are saying that except such manners or customs which might have been recognized in the body of this Code, everything else will be taboo from today. And my friend Mr. Gadgil says that this will be another Code of a modern Buddha or Manu or something like that (*An Hon. Member:* What a fall !) It is these manners and customs based upon the ancient ideology, which allowed the Hindu society to grow and prosper from time to time.

12 NOON

Today, this great Assembly—and all of us are honourable and learned men—is solemnly deciding that we are the: fountain-head of Indian

religion and Indian culture and whatever we decide to embody in this Code is final for the time being and nothing else will be allowed to be looked into by Judges and Courts. Does not the House know that even in 1951 after the attainment of Independence, our own Supreme Court had to draw from the original texts or their interpretations and give their verdict on cases where questions of Hindu law were under consideration, because they could not get any analogy from judicial decisions or text-books ? You are killing today the very fountain source of your religion which had given such a wide scope to generations of people to make it a living reality and you say that it is a forward measure : it is a backward measure ; it is a measure which does not help anybody at all ; it only helps in dividing the country. I do not wish to ascribe any motive to anybody. Anyone who may be supporting it or proposing it may be acting with the highest motives. I am prepared to admit that but what I would like to say is this : Do not give compulsory effect to the provisions in respect of all people. (*An Hon. Member* : Where is the compulsory effect at all ?) Divorce is not compulsory but the breaking away of the sacramental ties of Hindu marriage will be compulsory and that is bad enough. Whether divorce comes or not is a different question altogether ; you are violently changing customs and convictions. Somebody said, when I was speaking earlier that south India was specially progressive and many of the laws which we are considering are already in existence there today. I say good luck to south India. Let south India proceed from progress to progress from divorce to divorce. I have absolutely no quarrel with south India, but why force it on others who do not want it. In fact I have got a letter with me. I received it only two days ago—it is a postcard and I do not know the gentleman who wrote it.

Shri Gadgil : From the Dead Letter Office ?

Dr. S. P. Mookerjee : It is not from the Dead Letter Office. I can make a present of it to Mr. Gadgil, if he likes. It is not a dead letter. This only shows how customs vary in this country. Here is this gentleman who writes from Nuzwid, Kistna district.

“The Bill as published on the Hindu Law contains a provision rendering the marriages between a girl and her maternal uncle void as being within the prohibited degree. The aforesaid custom is widely prevalent in Andhra and Tamil Nad and even Brahmins consider maternal uncles of girls to be the most eligible and suitable bridegrooms for their girls. The prohibition is not known perhaps

to lawyers and to others. I am sure that the vast majority of our people are ignorant of it, in which case marriages celebrated in ignorance of this provision would operate as a severe hardship. I therefore request you to move an amendment.....”

I do not know why they had selected me in particular and not written to Dr. Ambedkar—

“... saving the custom from the prohibition or fixing sufficient time to elapse before the chapter on marriage, can be brought into force.”

This is just by the way, for those who were talking about the progressive nature of the people living in those territories. Naturally they have gone very far ahead. (*An hon. Member*: Is it true ?) I do not know whether the letter came from the Dead Letter Office but my friends from south India can tell me whether it is genuine (*Interruption*). I shall refer the writer to Mr. Bharati in my reply. The point which I am developing is this.

Shri J. R. Kapoor : It is not a progressive State.

Dr. S. P. Mookerjee : Those who may follow him may consider it absolutely progressive. It is only a point of view. I am not challenging the wisdom or un wisdom of any State. It might have been followed by lakhs and millions of people in this vast country. Naturally customs might have developed in a particular manner. My proposal boils down to this. You do not make this Code applicable to all—I am talking of marriage and divorce for the time being—but leave it open to those who will be married in future to make a declaration that they would like to be governed by these provisions and not be governed by the consequences of *dharmic* marriage ; you leave it open to them to do so. (*An hon. Member* : What about past marriages ?) That covers the cases of those who come in future. We are not legislating. I suppose for the purpose of helping the dissolution of marriage of the existing Members of Parliament. We are looking to the future ; we are thinking of handing over something to the future generation, whereby they can live in peace and with greater comfort. But supposing you want to apply it to those who are already married....

Dr. Ambedkar : It does not apply to those who are already married.

Dr. S. P. Mookerjee : There also you can make a provision. Supposing you want to apply it to all who are already married, there I will give a solution. You leave it open to anybody, say, within a period

of one or two years to register his decision whether he would like to be governed by this Code to opt for it, if you can use that language. (*An hon. Member* : Why not everywhere ?) Well, 'everywhere' I do not approve for this reason that you are deciding something for others for which you have no right today. You are passing a law whereby you are saying that the *dharmic* form of marriage will continue as now without any modification or alteration and the other form of marriage also is open to people who would like to take advantage of it. Let the people in future make their choice. There is no compulsion and for existing people you may give a time-limit or you may not give a time-limit. You can say that if any particular party desires to be governed by the provisions of this Code, such persons may make a declaration before the Registrar or Registrar-General or Director General or whoever he may be and get the relief as is provided for in the Code. I ask in all seriousness what is it that you lose thereby ?

Pandit Kunzru (Uttar Pradesh): What do we gain thereby ?

Dr. S. P. Mookerjee : What you gain thereby is that you do not break the unity of the country.

Pandit Kunzru : This Act when passed will be permissive. It does not compel any couple to take advantage of the provisions of divorce. It is perpetually open to a couple to say whether they are to be governed by that provision or not.

Dr. S. P. Mookerjee : That is a point of view which maybe urged with some emphasis. Here the difference is this : that you destroy the indissoluble nature of Hindu marriage which is regarded as solemn and sacred by millions of people. Pandit Kunzru may not agree and many people in this House may not. I am not quarrelling with those people who believe that marriage is bilateral arrangement, that it is nothing but a matter of contract; I have nothing to say against them if there are people who hold that view. Let them hold it, but there are those who hold the contrary view, who genuinely and sincerely believe that this system which has been in vogue for thousands of years is something sacred, something deep-rooted in their traditions and religion. What right have you to sit in this House and say that you want by one stroke of the pen to take this great right away ? That is my answer to Pandit Kunzru. (*Shri Bharati*: Monogamy.) I am coming to it. *Shri Bharati* need not be anxious I hope he is agreeing with me as regards divorce and that is why he wants me to go to monogamy. That is my line of approach. Believe me, rightly or wrongly, this country has been divided

tremendously on this Hindu Code Bill. I do not wish that that should be so. I want that we should go on progressing and making reforms in our social structure. But, we will do it in such a way that we can carry the bulk of the people with us, not carry them by force in this House or carry them by threads of sweeping agitation outside, but carry them by appealing to their logic and to their conviction. When I discussed this matter with representatives of the orthodox school of view.....

Dr. Ambedkar : That is Karapatriji.

Dr. S. P. Mookerjee : No ; I have not met him recently.

Pandit Maitra : What is the harm if he is consulted ?

Dr. Ambedkar : No harm. I invited him and he expressed a desire to come. Afterwards, he refused to come. I have not shunned him.

Dr. S. P. Mookerjee : I have not discussed this matter with Karapatriji recently. I shall not be sorry to discuss it with him ; but, I have not discussed.

Dr. Ambedkar : In fact; I invited him to come and discuss ; but he has not come.

Dr. S. P. Mookerjee : I have discussed this matter with many people who represent his point of view and others who are not orthodox. Somehow, the country is divided today. How to proceed in the matter ? As I said, it is not a Press law, that something is in danger and so you must go and pass the Press law somehow and operate it. This is not an amendment of the Constitution. It is not a political matter. In fact, we may differ on matters of politics. But, there should be a fundamental agreement with regard to the need for introducing reforms into our great country, which will make our civilisation more progressive and more advanced. That should be our common ground of approach. Those who are following the existing practices, those who are abiding by the ; provisions of the existing laws are not retrograde. The tragedy is that many of the supporters of the Bill, who have been carried away by their notions of so-called progress and advance, in their exuberance think that what they think is the last word on the subject, that they represent progress and the others are retrograde. That is very unfortunate. (*An Hon. Member : Lipstick*). I am not talking about lipstick at all; I have talked about progress. We should see the other man's point of view, the point of view of man who believe in the existing ideology, unless it can be pointed out that something is happening in the society which

is absolutely rotten, immoral, backward. If that could be pointed out. I am at one with Dr. Ambedkar and those who want to introduce reforms. But, if it is a mere difference of opinion, a mere difference in outlook, and you get whatever you want for those who share your point of view, why then do you force your opinions on millions of others, who do not share your view? That is a point of view which I would very strongly urge before the Law Minister and Government. If I had given you a formula which indicated an abandonment of the provisions of the Code for those who believe in it, you can blame me. But, I wish you godspeed; go ahead; do whatever you like for those people who believe in the ideology which you are preaching here. But in respect of others who and whose forefathers had proceeded in accordance with the old traditions and Who are no less patriotic Indians than any one who is sponsoring this bill, why do you force your options on them?

Talking of divorce has the law of divorce solved all social problems in countries where the system of divorce is now in existence?

Shri Himatsingka (West Bengal) : Created more.

Dr. S. P. Mookerjee : I have been going through some of the recent books on sociology. People are perturbed, because this is a complex human problem. The word has not found a solution to these problems. Those who have taken to the system of divorce, their number is leaping up. Do they find peace? Have they found happiness?

An Hon. Members : No.

Dr. S. P. Mookerjee : On the other hand new problems have come up. Read some of the latest books on psycho-analysis. There it is clearly pointed out that many of the evils which face the western countries are due to the mal-adjustment of the sexes. These are complex problems. Why blindly copy something from the west because some people from some part of the world have come and told you that. You are backward unless you adopt this? If there are forward people in this country, who believe in this ideology, give them a long rope, sufficiently long, so that they may hang themselves. But, do not interfere with others who have found a solution of their problems through different doors altogether.

So far as monogamy is concerned. I shall support it with one reservation. Make it applicable to all the citizens of India. It is not a question that monogamy is good for the Hindus and monogamy is not good for others. Stand for one social doctrine.