

House either to accept the option or reject the measure. In fact I thought at one stage of accepting closure today.....

Several Hon. Members : No, no.

Pandit Maitra : It is a most important clause, the very life-blood of the whole Bill.

Dr. Ambedkar : I am prepared to accept closure even on the tenth day.

Pandit Maitra : Do it on the 15th day. You make its application optional and we will pass it straightaway.

Mr. Deputy Speaker : On this clause at an earlier stage about 17 or 18 members have already spoken.

Shri Naziruddin Ahmad (West Bengal) : All that has been forgotten entirely.

Mr. Deputy Speaker : That is why I have allowed references to all clauses. The discussion has been on the details of the Bill as a whole and not absolutely confined to clause 2. We must see to the end of the discussion some time. I therefore, request hon. Members to confine themselves to those matters which arise out of clause 2 and the amendments to the clause. I do not want to curtail discussion but this kind of discussion will be endless. It so happens that whenever I call upon Pandit Kunzru to speak I have to make some suggestions to the House but they are not intended for him particularly.

Shri R. K. Chaudhuri : The Hon. Minister who spoke just now has to be answered and should we not follow him ?

Pandit Maitra : We have now been told that this Bill will be proceeded with in regard to its first two parts. You will realise easily that clauses 2 and 4 are the two fundamental clauses in the whole Code. After passing these two you can go ahead at the speed of the Frontier or Punjab Mail. The main point is the question of the applicability of the law to the communities mentioned. You should not be carried away by the mere fact that 16 or 17 Members have spoken. You are going to legislate for 30 crores of people and therefore a momentous measure like this has to be given serious consideration. If the Bill has been taken spasmodically now and then it is no fault of ours. They introduce it and at one stage when they meet with opposition they put it by. Then they gather strength and come back again. That is no fault of ours. If they had taken it up in a special session the House could have devoted its whole time and we would have been in a better position to know what we said on one day and what are our contentions now. It is not the old bill before us : It is a new thing that has come before us.

Sardar B. S. Man (Punjab): Since you, Sir, mentioned the closure motion and there is the threat thereof may I request you that those Members who have moved amendments as regards certain communities should be given their chance so that they may explain their view point. I hope closure will not be accepted by you till we have had the chance to speak, that is those of us who have moved amendments.

Mr. Deputy Speaker : My difficulty was that I looked up for those gentlemen who had tabled amendments. Others who had already spoken with respect to their amendments I did not call. I picked out four of the hon. Members who had tabled amendments and had not spoken so far. I was looking round for them to stand. The whole of yesterday none of them got up from their seats. Therefore they cannot say that no closure can be accepted until they are called to speak, if they are not inclined to stand up. Today the hon. Sardar B. S. Man sent me a chit saying that he was anxious to speak, because yesterday he did not catch my eyes.....

Sardar B. S. Man : Even yesterday I stood up.

Mr. Deputy Speaker : The general principles of the Bill have been already discussed fully in the consideration stage. With respect to this clause, whether it ought to apply immediately or it should be optional are matters with regard to which amendments have been moved. But going into the entire frame-work of the Bill and whether it ought to be accepted or not on the analogy of some other pieces of legislation, are not, I think, quite relevant.

Shri J. R. Kapoor (Uttar Pradesh): So far as I am concerned I did not stand yesterday to catch your eye in deference to your direction or view that you would like to give an opportunity to those who have moved amendments after those who had not spoken on the previous occasion. That was my reason.....

Mr. Deputy Speaker : Even if he stands I do not propose to call him.

Shri J. R. Kapoor : Not even in respect of the new amendments I have moved ?

Mr. Deputy Speaker : I have tabulated all the amendments now and they have been circulated. No new amendment has been given by the hon. Member: they are only repetitions in another form of the amendments he had already moved. After I finish with the others I will consider those who have already spoken. But as a rule I would not like

to allow any hon. Member to speak, who had spoken already. Somehow Dr. Deshmukh was called yesterday when I was not in the Chair. If I had been here I would not have called him.

Shri J. R. Kapoor : My amendments fall into two categories : one old and the other entirely new.

Mr. Deputy-Speaker : I shall come to that later, after others have been given an opportunity.

Shri Bhatt : Sir, excuse me. I am sitting opposite to you but am not catching your eye. I have been getting up since yesterday. You said that those who have given notice of amendments did not stand up. May be, there is some forgetfulness on your part.

Mr. Deputy Speaker : Order, order, the hon. Member need not cast aspersions, that I had not seen him or I did not notice him. Hon. Members have no patience to sit and await their chance. When they come they expect to be immediately called and if they are not, they go away to the lobby. You cannot expect me to bear all this in mind. When I make up my mind which hon. Member to call next and if he is not in his seat I am entitled to ignore him. I cannot call them by the order in my mind one after the other. That is not the practice even in the House of Commons. I did not find the hon. Member standing up when I was in the Chair. I have a note here. I made a note of those Members who have not already spoken but have tabled their amendments. But they have no patience to sit here and the moment they are not called they go away to the lobby.

Pandit Maitra : There is absolutely no dissatisfaction at what you, Sir, have done. I want to assure you that we have the feeling that we are all getting an honest and fair deal—absolutely impartial deal—from you. We have no feeling against the Chair.

Pandit Krishna Chandra Sharma (Uttar Pradesh) : May I suggest that the words used by Shri Bhatt may be withdrawn ?

Pandit Maitra : He never meant any objection.

Shri Bhatt : With your permission, Sir, I want to clarify the position. All I wanted to bring to your notice was that I have been standing, but perhaps you did not notice it.

Mr. Deputy Speaker : I shall come to hon. Members who have not spoken and who have tabled amendments next.

***Pandit Kunzru** (Uttar Pradesh): If I may say so, I agree with you. Sir, that we expected that the debate on the clause. But important questions of concerned with the merits of the clause. But important questions of principle were raised yesterday and I see that the minds of hon. Members are coloured by what was said in the course of yesterday's debate. It is therefore unfortunately necessary to say something on these points so that the prejudice created against those parts of the bill that we are going to discuss may be removed.

My hon. friend, Shri N.V. Gadgil has dealt admirably with some of the points that were raised yesterday, and I venture to say something more on this subject because I feel that what was said yesterday ignores not merely the spirit of Hindu Law but the changes that are already taking place in Hindu society. In considering the Bill before us it is not enough that we should confine our attention to the provisions of the Bill. It is necessary that we should understand the character of the society for which we are legislating ; Its most important character is change; it is in a state of transition. To mention only one important factor that is vitally affecting our society, a great deal of awakening has taken place among our sisters during the last twenty-five years. They have happily become conscious of their just rights and they are making organised efforts in support of their just demands. It is partly to the credit of these educated and enlightened women that this Bill has been placed before us. But we have to add to this the fact that education is fast growing amongst women.....

Shri R. K. Chaudhuri : You mean Western education ?

Pandit Kunzru : The education that you have received and in spite of which you claim to be a good Hindu. Our sisters are receiving the same education and there is no reason to suppose that they will become denationalized or adopt an attitude of disrespect towards their religion or culture. Our women are receiving education in ever-increasing numbers. They will enjoy the franchise on a footing of equality, complete equality, with men. Is it conceivable that in a society that is being moulded by such forces inequalities between men and women will be tolerated for any length of time ? Those who use the name of religion in order to defend social inequalities and social injustice are doing the worst service they can to Hindu religion. There is nothing, I venture to say, in those provisions of the Bill that we are going to discuss

in this session that is in any way in conflict with the best principles of Hindu Law or with the spirit that has always underlaid it.

What are the main features of the bill so far as we are going to discuss it now ? They are monogamy and divorce. As regards monogamy, my hon. friend, Dr. Syama Prasad Mookerjee said realistically yesterday that in view of what had taken place in the past it was too late today to contend that this Parliament was not competent to undertake legislation in respect of social reform. He also said that he would be prepared to support monogamy if the Muslims were brought within the purview of the Bill. I remember distinctly that when the general principles underlying the bill were discussed, some speakers expressed the fear that Hindu society was being compelled to imitate the Muslim society in respect to inheritance. We know that among Muslims daughters have a share in the father's property. Yet, we were not in favour of assimilation between Hindus and Muslims in this respect. What right have we now to ask that no legislation should be undertaken in respect of Hindu marriage unless it applies as much to the Muslims as it will do the Hindus ? People who are not prepared to allow women to have a share in the property of their fathers have no right to ask that the law relating to marriage that is applied to the Hindus should in all respects be applicable to the Muslims also.

The arguments that have been put forward now were carefully considered by the Hindu Law Committee. I should like to remind the House of what this Committee said with regard the objections that had been urged after considering them one by one, it came to the conclusion that they were either far-fetched or had no relation to existing facts and then said:

“We have accordingly decided to retain the provision for monogamy in the draft Code. It will prevent the husband from deserting the wife at will and contracting a second marriage. There is a substantial body of evidence before us that cases of desertion and re-marriage are increasing and this problem is best solved by enacting monogamy as a rule of law.”

I think that the observation of the Committee has great force and those who oppose monogamy on any ground must deal with the concrete reasons put forward by the Committee in favour of proposing monogamy. The Committee drew attention to the fact that monogamy had been enforced by law in the State of Bombay. Legislation was undertaken there four or five years ago to prevent polygamy amongst

Hindus. We can now say that there is a similar law in the State of Madras. Indeed the State of Baroda where there was a Hindu ruler and whether the large majority of the people were Hindus passed a law many years ago in favour of monogamy and divorce.

Shri D. D. Pant (Uttar Pradesh) : The Ruler violated it.

Pandit Kunzru : If the Hindus in all these places have violated Hindu Law, then where can you find real Hindus—only in this House ?

It was yesterday that the demand was put forward that the Bill should be made permissive, that is, the enforcement of the provisions should be left to the States. Now, here are two important States in which the principle of monogamy is already in force. There are other parts of the country also, for instance, the district of Malbar and the State of Travancore-Cochin, where legislation has been passed to prevent polygamy amongst Hindus. In view of this and in view of the fact that it was freely admitted in the debate yesterday that in a large majority of cases, in an overwhelming majority of cases, the marriages were monogamous, on what ground can anybody now ask that provision relating to monogamy should be made permissive ? This is the only provision of the bill that is not permissive but compulsory, and it is compulsory for a very good reason. It will be compulsory, but that principle appears to have been accepted by Hindu society at large. In those places where it prevails Hindu law has not been subverted. There are as good Hindus there as there are amongst the Hindu Members of this House. I think therefore that my hon. Friend Dr. Ambedkar is on strong ground when he asks that we should lay down as a rule of law that monogamy should prevail amongst the Hindus in this country.

The next point that I should like to deal with is divorce. Here too it is asked that the provisions should be made permissive. But they are already permissive. Unhappy couples will not be under a compulsion when this law is passed to rush to a court of law and ask for immediate divorce. It will depend upon them whether they will take advantage of the provisions of the law. What more can be done in order to remove fears and in order to enable only those people who find the existing conditions intolerable to seek either separation or complete divorce ? The Hindu Law Committee, dealing with this point, said :

“From the evidence adduced before us we should think that there are thousands of women in British India who have been deserted by their husbands.”

Then it goes on to say :

“Many hard cases were also brought to our notice by other witnesses in which re-marriage was both desired and possible but could not be effected by reason of the existing law. The number of these cases may not be relatively large and reckoned in terms of percentage the problem may not appear to be a formidable one. But as we have already stated there are thousands of such cases in India and if even a small proportion of these women desire a divorce with a view to getting themselves remarried the question is whether the law should say upto them ‘nay’. Evidence was brought before us that in many cases re-marriage is quietly celebrated and that society tolerates and recognises such remarriage.”

Here, again, the facts are incontestably against the view that there is no need for having a provision for divorce in our marriage law. No one is compelled to take advantage of it. There is no reason why for the sake of the patient sufferers, those who seek relief should be denied. I have already referred to some of the States where monogamy is legally in force. I may add that the law allows divorce in all the States mentioned by me in respect of monogamy. Now what has happened to Hindu society there ? Has the sanctity of marriage become less than it was before ? Do not the Hindus there regard the tie of marriage as a sacramental tie ? Have they no respect for Hindu religion or Hindu culture ?

Pandit Maitra : The sample is here.

Pandit Kunzru : I should very much like to see a discourse between my hon. Friend Pandit Maitra and the people of the States mentioned by me on this point. He will not find it easy to convince them that they are inferior to him in their regard for Hindu culture and Hindu society.

Pandit Maitra : Then leave it to individual areas to legislate : why force it here ?

Pandit Kunzru : I have already pointed out that there are so many areas in which this law is in force. In the second place I have taken pains to point out that the provision will be permissive. What do you mean by asking that it should be permissive ?

Pandit Maitra : Make it optional for all.

Pandit Kunzru : It will be optional for unhappy partners to seek relief under this law or not. Nobody is going to compel them either to separate or to seek divorce. What more do you want ?

The law in Baroda has probably been in force for a much longer time than in the States of Bombay and Madras. But it appears from the evidence given before the Hindu Law Committee that both in 1940-41 and 1941-42 the number of suits by persons belonging to castes in which custom does not allow divorce was three only. My hon. friend Dr. Syama Prasad Mookerjee said yesterday that if 90 per cent, of the people could already get divorce, where was the need for bringing the remaining ten per cent, who were following a higher law and who regard marriage as indissoluble. Well, I am sorry that he is not in his place. But I should like to point this out to him.

Besides, we all know what is happening in Hindu society. If a husband drinks and beats his wife, or deserts her, is this a sacramental act? Is this in accordance with the sacred character of Hindu marriage? An hon. member behind me ask : "Why not check it?"

Pandit Maitra : There are also wives who beat their husbands.

Pandit Kunzru : I do not say that the wives are impeccable. Wives have their own faults, but the law will apply not merely to wives but also to husbands. In view of this it is idle to claim that the upper strata of Hindu society, that is men belonging to the *Brahmin*, *Kshatriya* and *Vaishya* castes have a higher ideal than the members of the other castes.

Again, it has been said that this Bill has caused a great deal of perturbation in Hindu society. I find that this is due to the fact that people are misinformed with regard to the provisions of the Bill. When the provisions are explained to them a good many of their misapprehensions disappear, and I have no doubt that if those who assiduously voice the fears of the people in this House will take a little trouble to explain what its provisions really are.....

Pandit Maitra : Let the government do it.

Pandit Kunzru :much of the dissatisfaction that exists will disappear.

Government is doing what it can to spread a correct knowledge of the provisions of the Bill, but is it not the duty of those people who believe in truth and in the spirituality that underlies Hindu law to take a hand in this good work? Why should they not seek to remove the prejudice that has been wrongly created against the Bill.

Pandit Maitra : Leave it to them to decide.

Pandit Kunzru : My hon. Friend disregards facts completely. I confess that I am powerless to convince him....

Pandit Maitra : It is my misfortune also.

Pandit Kunzru :if he continues to shut his eyes to facts.....

Pandit Maitra : I am looking straight at them.

Pandit Kunzru :and says that nobody in India has before the introduction of this Bill ever heard of the words monogamy and divorce.

Shri R. K. Chaudhari : Monogamy means monotony.

Pandit Kunzru : I think that those who are supporting the principle that underlies the provisions that we are considering, who are trying to bring about complete equality between men and women, who are trying to renovate Hindu society, who are asking it to go back to the great principles that once made it great and the envy of the world, are rendering the greatest service they can to Hindu religion and culture. I hope that they will persevere in the path they have chosen themselves and make Hindu religion as respected throughout the world now as it was some centuries ago.

***Shri Bhatt :** (*English translation of the speech*) Sir, I am being asked to speak in English, but as ill luck would have it, I cannot speak in English. I cannot express my ideas and feelings as suitably in that language as I can in Hindustani. I may be excused for that.

Shri R. K. Chaudhari : Sir, we do not understand high-flow Hindi and we cannot follow if the hon. Member speaks swiftly. We can understand if he speaks slowly.

Shri Bhatt : I have not taken the floor simply in order to reply to what the Hon. Minister has said, but I am here to express my own ideas. We are going to perform a big task and ours is a Herculean endeavour. We are descendants of Bharat and Bhagirath, Rama and Krishna, Manu and Yagnavalkya. The systematisation and codification of Hindu Law in such a way that we may be in a position to apply, it to our lives, is a Herculean effort. As Shri Gour has said about England:

“Various attempts have been made to codify the laws of England but the attempts have so far failed.”

England is a progressive country and yet its laws could not be codified. In our country where there are so many complications and anomalies and customs have a very heterogeneous character, the magnitude of our task is indeed great. As Hon. Minister Kaka Sahib Gadgil said, if we do not perform this task, how would we be able to

bring the divine Ganges and Yamuna to the plains as Bhagirath did ? I congratulate him on his courage. We also want to help him and not impede his efforts. I want to say that things should be done at an appropriate time and by suitable methods. I do not say that Hon. Pandit Kunzru wants to deprive the Hindu *Shastras* of their sanctity and importance but at the same time I do not like that we should drift towards materialism and see things only from the point of view of our convenience. We do not want to make his law only to prove its ineffectiveness in the long run. Our Hindu *Shastras* have also been amended. Today they call Dr. Ambedkar as Manu, Shri Gadgil is called Yagnavalkya and Shri Gadgil can give any such name to Shri Naziruddin Ahmad also.

Shri Syamnandan Sahaya (Bihar) : Call him Narad.

Shri Bhatt : It is difficult to say today whether we have made any progress or have gone back. I would say that from the point of view of food, clothing and living, we have the same standard which our ancestors had during the Mughal period. Is our standard of living the same as obtained 150 years back ? Do we have the same facilities which we had thirty years back ? Applying this standard, we can not say that we have progressed. Can we say that we have made progress simply because we have passed more laws ? Or shall we say we have progressed as we have become more healthy and courageous and have become true Aryans ? This is a difficult question ; I cannot answer it nor have I the time to do so. It is a new subject and I do not want to go into its different aspects. I shall try to confine my remarks only to my amendments and clause 2. Our *Smritis* and *Shastras* have kept changing according to times. I agree with the Hon. Minister in that we have our *Dharma Shastras*. Shri Maitra may interpret them in one way. Shri Gadgil in another ; Dr. Ambedkar may ex-pound them in his own way and my interpretation may be different from those of all these gentlemen, though I am not a scholar of *Shastras*; all I want to say is that our religion, our *Smritis* and our *Shastras* are eternal. Changes have taken place in them and new things have been incorporated in them at times changed. They change with time and place and never lag behind. Without showing disrespect to the scriptures of any other religion or community I want to say that the Hindu *Shastras* and tradition live to this day ; that is why Hinduism has kept place with time. It is in that sense that I consider them as eternal.

Pandit Malaviya : After the code has been passed it will not remain so.

Shri Bhatt : We don't want to frighten them. I remember that the Hindu Code Bill Committee prepared a draft of the Bill and it was presented to the House in April, 1947. In the statement of Objects and Reasons was this sentence : "There is a growing public opinion in favour of codification and a uniform code." Besides this our hon. Kaka Saheb Says, "It is difficult to say which side is stronger"

Mr. Deputy Speaker : In the Official Report it will be difficult to understand who "Kaka Saheb" is.

Shri Bhatt : I admit the truth of what you say. As Kaka Saheb *i.e.*, the Hon. Minister Shri Gadgil said just now and others said yesterday, that the English knowing people and even those who do not know English but have progressive views, agree to this. But if this is true, why do so many demonstrations take place against this Bill ? Both sides demonstrate. Abound the Parliament House, those who are in favour of the Code Bill and those who are against it, both of them demonstrate. I know both sides have scholars and intelligent people among them and also men and women.

Dr. Ambedkar : They are all lunatics. They are out because our lunatic asylums are too small.

Shri Bhatt : Then Hon. Dr. Ambedkar says that those who are opposing the Bill are lunatics. I beg to submit with respect that I want to stand against this statement. If you call them lunatics, they would call you a hundred times bigger lunatic. I want to emphasise that if a person calls his opponents lunatics, he is living in an age with which we are fed up. During British Rule, such Government was here as neither listened to, nor tolerated what others thought. I don't agree to Dr. Ambedkar's statement, who has been compared to Manu, that his opponents are lunatics and are out because our lunatic asylums are too small. I agree.....

Shri R. K. Chaudhari : May I say that we are losing all the humour because the hon. Member is speaking in Hindi. Those who know Hindi understand but we are not following him at all.

Pandit Malaviya : It is not humour but grim humour.

Pandit Thakur Das Bhargava (Punjab) : My hon. Friend does not understand, otherwise he would be somewhere else according to Dr. Ambedkar.

Shri R. K. Chaudhari : I understood Dr. Ambedkar to say that those who were opposed to this Bill are mad. Is that in order ?

Mr. Deputy Speaker: He has not said so.

Shri Bhatt: I was saying that Dr. Ambedkar may hold certain views and ray views may be different. After 1947 this Bill was sent to a Select Committee, which presented its report in August 1948. After that this bill again came up for discussion. As you are aware sir, our Government does not want to hurt anybody, nor does it want to do anything which might create a sensation among the people. So our Government consulted *Pandits*. Dr. Ambedkar also listened to what certain *Pandits* had to say. He gave them an opportunity to put forward their views, though not to their heart's content, but they were given an opportunity all right. I do not know whether he accommodated their viewpoint or not, but after that he put forward something new and amended it. Now he is bringing forward new amendments every day and that is good ; there is nothing wrong in it. He wants that he should bring round his opponents, and taking their grievances into consideration, put forward an agreed legislation. With this idea in mind the Government have introduced this Bill and we are discussing clause 2 of the same. This Bill contains many different things, but if I have rightly understood, for the time being only two parts, *viz.*, those relating to marriage and divorce are to be taken up. If we are going to take up only one thing as suggested by Shri Gadgil, who has expressed the hope that it would demonstrate our might. I would request them to stop there if they have any idea of what is practicable. I repeat what I said in an earlier speech ; and that is the Government should wait till the next House is elected within four or five months. Those who will get elected to the next House, will put this question before their electorate, before the people. This has become a burning question and it will remain before them. Put it before the people and the members of the next Parliament will get a mandate from them on this question or will tell their electorates what they would do when they sit in the new House. While speaking on the Child Marriage Restraint Bill in 1929, Qaid-e-Azam Jinnah had said, "It is necessary that children under 14 should not be allowed to marry. If my electorate does not agree to this, I will resign from the House, and they may elect somebody else to represent them". We should be definite about what we want. The idea that we should not antagonise anybody, now that we have reached the last stage, should not enter our calculations. The best possible draft of the Bill should be put forward before us and we should clearly know as to how far we are to go. Why should you put only one thing before us ? We have to scrutinise every

clause. Dr. Ambedkar has become so impatient that he wants to bring forth a child, no matter if it is blind, devoid of limbs or unable to move. What he wants is a son so that he may have somebody to offer *Pindas* to him.

An hon. Member : So that he may get deliverance ?

Shri Bhatt: Pardon me. May he live for a thousand years ; I am speaking only figuratively. If Dr. Ambedkar and Pandit Jawaharlal feel so strongly about passing the Bill, we will bring round those who have been termed as lunatics. Use whatever methods you like to bring them round, to repress them, we are with you and may be we would also come under your influence but please refrain from passing a legislation that is incomplete, invalid and base. On the contrary it should be lofty. Why do you say that you do this and you do that just to accommodate us ? Don't do it if you think it is not right. If we are elected to the next House we will say with more courage that we are armed with the mandate of the people on this question and we are not going to bow to the directives of anybody else. We will bow only to the will of the people. I am a quiet man and do not wish to prolong my remarks on this point. A couple of days back I had occasion to go to a factory. People working there asked me what all this fuss about the Hindu Code Bill was. I countered that question With the remark as to why they were afraid of this measure. They said "This is going to put an end to our religion, there would be chaos in our society and we will deteriorate." So I had a talk with them. Many of them were intelligent people, who had read the draft Bill. We should not think that those who are opposing this Bill are doing so without understanding it. They referred to the provision about divorce and said that these days they can get divorce more easily according to the prevalent customs. "Why should you", they said, "drag us into the court and make us say that a woman is immoral and make the women accuse their men of adultery ? It is better to discuss these thing in our *Panchayats* and people who understand the truth about a particular couple will separate them." Now, this needs a lot of consideration. Will Dr. Ambedkar argue that divorce rules, wherever they operate are very lenient and should not be so because that will endanger Hindu religion ? Hindu religion is not endangered because of that. There are others who say that Hindu religion will be endangered if this Bill is passed. We have to tax our brains to see which side is right. Everybody has to think. Then I asked those people in the factory as to what else they had in their minds. Then they mentioned the problem

of the share of the daughter in her father's property. What I want to show is that those who are opposing the Bill are not lunatics and that they are not acting without intelligence. Some members of the *Adarsh Mahila Sangh* came to me and put the same question. Now they are also wise and reasonable. No doubt, the hon. Member Shri Renuka Ray, Shrimati Durgabai or other lady members are wiser and more well-read. But that does not mean that women outside this House do not understand the significance of things or, as somebody said, that they are mere blockheads. The ladies I referred to just now, started discussing and said that we should do nothing that may bring down the whole structure of society. We have opened a way by passing the Civil Marriages Act. Persons marrying under this Act can also give divorce. Why should we go further? Let our customs remain as they are. We do not say that a certain person should not do a certain thing. Gradually people would begin to understand.

Shri Kunzru has spoken about monogamy. People don't have enough to live on. In many cases it is difficult to support one wife even, how can everybody support two? Muslims are allowed to have as many as four wives, but has everybody four wives? In very few cases, men have two wives and very rarely one has four. I could not obtain census figures in this respect. Our Statistics Department is still far behind. The question now is, how Muslims came to be allowed to have four wives at a time. Hazrat Mohammad fought the battle of Ohad in which a large number of men were killed. The result was a preponderance of women over men, for the protection and upkeep of whom those who could support upto four wives were ordered to take that number of women as wives. This thing has happened in Germany and France at different times. In our country there is more or less a parity between the numbers of men and women. The number of women is some thousands less than that of men.

(PANDIT THAKUR DAS BHARGAVA *in the Chair*)

But if, unfortunately, the number of women goes up by two crores, a new legislation will have to be passed to meet the new situation. I am going into detail to show that our laws were made according to the demands of time and place and even now they are being made according to the same standards. Dr. Ambedkar wants a legislation of that sort but that legislation should have the effect of healing. In our country marriage is not a matter of convenience only. He may be of the view that marriage is merely a contract, pure and simple. These words have

been used by leading lawyers. But the basis of our society is not only materialism. Our society is based on our ancient *Shastras*—the *Shastras* pertaining to agriculture, zoology and sociology. From the point of view of genesis the horse and the ass, belong to the same genus, as all of us are human beings. But human beings differ in different countries. A person likes the same sort of climate and environment in which he has been brought up. The same is the case with other living beings. Take somebody from Hissar to a new place and see the reaction. Take the case of trees for instance. Can a tree from Kashmir thrive in Rajasthan ? Many attempts were made to plant mango trees in Rajasthan but they all failed. After all there is some principle behind it. Land, seed, water and climate, every factor has something to do with it. You can't plant a tree anywhere. The same is the case with marriages. You can't marry somebody to anybody. Even for trees one has to consider which tree can be grafted upon another. I don't want to go into details. My point is that our society is based on certain political, educational, hygienic, eugenic and sexological principles. If you want any proof of this, I will quote a portion of Dr. Bhagwan Das's long speech which he delivered while presenting his Hindu Marriage Validity Bill. In this speech he quoted many things from the *Shastras*. Dr. Bhagwan Das said :

“The hygienic and eugenic and sexological principle is that every possible care and caution should be exercised and all possible cleanliness and purity secured in respect of food and marriage and that persons with similarity of tastes and habits and purity of temperament should dine together and marry together so that the individual and racial-health and happiness may be promoted.”

I do not see much in eating and dining. Even before Gandhiji I did not believe in this. But if you ask me to dine with a fish-eater I would ask to be excused. I do not consider him an untouchable, but I have formed a habit. If somebody asks me to marry a certain woman....

Dr. Ambedkar : There are not so many fish that could be supplied to everybody.

Shri Bhatt : I was going through census figures and my friend Shri Sidhva and others may pardon me, when I say that I found from the census that many men marry at the age of 60 even. I, for one, do not want to marry.

I was saying that compulsion cannot be used in regard to our way of life. One's way of life should be according to one's own temperament. It will come about after some time, if not today. I am sure that Panditji,

in whatever he does, will have the country's interest before him ; that is why we consider him as our leader. We would not consider him as our leader if we did not have any faith in him. In the same way we believe that whatever our parents will do, will be allright for us. If we do not have any faith in them we will ourselves seek our mates but then we shall take into account our nature, habits and convenience. Our faith is based on these things and we should not make any such law as my create difficulties for the society, or spread discontent. After all, the object of every legislation is to make society happy and prosperous. But if people think that a certain legislation brings them disaster, bring them round to your point of view. If Dr. Ambedkar is so particular about this Bill let him address a meeting of a lakh of people and explain to them the benefits that will accrue from it. At the same time a *pandit*, an opponent of the Bill, should also put forward his point of view. If those one lakh people were to express their views by means of a secret ballot, may be that would satisfy you.

Shri Naziruddin Ahmad: That will be the end.

Shri Syamnandan Sahaya : Take a secret ballot in this very House and it will be the end.

Shri Bhatt: You are afraid and that is why you do not put it before the people. There was only one person, and that was Gandhiji who believed in putting everything before the people. He thought that untouchability should be abolished. The capatalists threatened to boycott him. When Gandhiji went to the Mulji Jetha Market of Bombay to collect money for the Tilak Swarajya Fund and asked for a crore of rupees for that fund, the capatalists said that they would give not one but five crores, only if Mahatmaji expunged the abolition of untouchability from his programme. Mahatmaji replied that on that condition he did not want even a single pie from them, not to say of five crores of rupees. He said that he would stand by his principles and march forward towards *Swarajya*. It is the duty of the Government to go to the people. We are ordinary men, have not studied the *Shastras* to any great extent. You have wisdom, go to the *Pandits*, to the Shankaracharya, who is opposing it, go to those women who are against it and whom you want to make happy and try to persuade them. I don't think that this Bill is going to benefit only the women. I do not consider this to be a Magna Charta for women only. You are trying to benefit the whole of the society and I thank you for that. You should bear this in mind that the subject under discussion is not new. Not to talk of 1942, in 1937 Dr. Deshmukh had introduced a Bill which brought this matter

to the foreground. In 1856 Shri Ishwar Chandra Vidyasagar and Raja Ram Mohan Roy brought about reforms like widow remarriage. These things have been going on. Authorities and commentators of our religious scriptures have written different things about the subject. I don't ask you not to pass this legislation. But why are you doing it today? Why are you so impatient?

Please be good enough to wait for some time. General Elections are imminent and the new House will meet in May next year. At that time you may bring forward the best of legislations and pass it. Some of the present Members may again be elected and if I again sit in this Houser I will take part in the deliberations. But before that put the final draft of the Bill before the people and do not have an incomplete legislation and say—"Gokul Bhai, please get it passed". I do not want this. Give me something wholesome to eat. If you give me something dirty to eat or say that I should eat controlled rice, because nothing better is available. I won't have it. I will have something good to eat. It is another thing that hunger may compel me but if there is an alternative food I will prefer that. I would rather eat leaves of trees than eat anything dirty. So I request you to postpone this Bill. You have accommodated us to some extent and I want to thank you for that. I congratulate you on your sagacity because you have met the demands of time. But be more liberal and go a step forward. I would also ask my sisters what good would accrue to them if it is passed just now and how they would come to harm if it is delayed by four months. The skies would not fall, nobody would come to harm nor is there any question of monetary advantage if it is passed. That is why I am making this request.

I again refer to the talk I had with some people in a factory. They want the question of divorce to be settled according to custom. But what are Customs? Customs have a great influence, even Dr. Ambedkar won't deny this. What I am opposed to is that you want to do away with our customs. That will not work at least for some years to come. If you want to take the backward classes with you you will have to slow down your pace. Only in that case shall we follow you. Mahatmaji was very progressive. When Shri M. N. Roy came to the Faizpur Congress and began discussing Communism with Mahatmaji, he (Mahatamji) said, I was not there. I am telling you what I came to know about their conversation—"Mr. Roy, say whatever you want to say in the strongest possible words about present day society and capitalists". Mr. Roy made a strong and lengthy speech. Then Mahatmaji said, "Is that all?"

And after that Mahatmaji replied in a few words which took only some minutes. Mr. Roy was surprised and asked if Mahatmaji felt that way. Mahatmaji said—"You don't know me well enough. I shall put forward my ideas, as our society makes progress. I know our society is backward and many ideas have not developed to the extent to which they should have. But I have to carry the people along with me." That is why I say, however high the ideas and whatever happiness they might bring, what are you Dr. Ambedkar going to achieve with 15, 20 or 25 members of the Cabinet, if we are not with you. I see that many people belonging to the majority accept certain thing because Shri Nehru or Dr. Ambedkar has asked them to do so, but if I do it, who will follow me? I repeat that I will be deceiving you if I did not tell you that people do not want it in this way. I don't want to deceive you. As we are your followers so are our electorate with us. We have to see to their good and convenience. It has been said, as you know, "*Shastra rurhi baliyasi*" i.e., custom overrides the *Shastras*. After all, laws are made by men, so were the *Shastras*. When our customs have claims of precedence over *Shastras*., why can't our society override our laws? I ask you to take this into consideration.

There is one more drawback which I would like to point out. Shri Kunzru is not in his seat, I would ask Dr. Ambedkar to excuse me. We have become so thoughtless that when the westerners say that our marriage laws and ceremonies are very good, we will agree with them. "When Max Muller says that our *sastras*, *upanishads* and *vedas* are the best in the world, we take that to be true and quote him. But our own commentators and authorities have said the same things in a better way, yet nobody cares to go through their writings.

I have been just now told the copies of '*Yagnavalkya Smriti*' could not be available in the whole of Delhi city even on payment.

Dr. Ambedkar : I have got so many copies with me.

Shri Bhatt: If you have got the copies please lend them to us; they are not to be found in the Library. *Sanskar Kaustuba* and *Yagnavalkya Smriti* could not be found in the Library. You have got all these things, you might have personally purchased them; you are thirsty after knowledge and a lover of learning; not only that, you are a learned scholar and a *Pandit* as well. But please place those copies in the library for some time so that we too may have change to benefit ourselves by those books, and may be able to have the necessary information. I have never been impressed with the translation of Gitanjali done by

Yeats, because it has always been my endeavour, and I had made up my mind in this connection when I was at College, not to read Rabindra Nath's Gitanjali until I had learnt Bengali. I have always held that it is useless to read such a work without having the knowledge of the language in which it was originally written. I have not been able to learn Tamil so far, but I would try to learn it, such has been my tendency from my early days. When I saw Gitanjali in original and its translation by Keats. I found a lot of difference. The translation did not contain anything worthwhile. Compared to it the translations in vernacular languages are much better. I have seen a more beautiful translation in Marathi done in *Abhanga* metre by some person under a pseudonym. But unfortunately we Indians generally close our eyes to those things which are our own and when somebody from outside throw light on them we exclaim 'Yes now we have seen'. I would like to ask after all what flood lights are opened before our eyes by the foreigners which dazzle our eyes and we begin to appreciate those things ? After all what are the defects in our own lights ? What do you think is missing in the lights that we have ? We should try to understand our own things in the right perspective and after a full realization should gladly make the necessary changes in them so that everybody may be satisfied and it may be in the interests of all.

Now, I come to the point as to what a Hindu really means and wherefrom has this word Hindu come ? Sir, you would excuse me if I would take a few minutes more to throw light on this. My submission is that I do not like to go into the historical facts nor do I want to go into Greek and Iranian histories. Neither do I want to go into the details as to what relations we had with Iran and Greece in the past; but I would only make an attempt as to wherefrom has this word 'Hindu' come. My amendment wholly relates to this very thing. One opinion about the origin of the word 'Hindu' is that there were two cities in *Gandharva* Desh, one of them was known by 'Hindas' from which the word 'Hindu' has been derived. The second opinion is that the word 'Hindu' is derived from the word 'Sindhu' the great river that we had according to Philology letter 'S' has changed into letter 'H' and in this way the word 'Sindhu' changed in to the word 'Hindu'. The word *Hinduani* occurs at several places. It is difficult to ascertain the source of this word. I visited Central Secretariat Library but found it to be too poor. I have never seen a poorer library than this one. I asked for books related to this matter but I was told that they had no special

collections on this subject, further adding that only some articles might have appeared in annual numbers of certain magazines here and there on this subject. That was all and there was nothing more in that Library. As against this, had I gone to the Royal Asiatic Society I could have definitely got some better and useful material, but, unfortunately, I did not find time to go there. Sometimes the Press Bill and sometimes this Hindu Code Bill and other things detained me here. Anyhow, I do not go into the details as to wherefrom has this word 'Hindu' come and what its origin actually is. But one thing need be kept in view that the word 'Hindu' means the people who inhabit this land of Hindu *i.e.*, the whole of Bharat. All the people living in this land are Hindus, whether you call them by the name *Arya* or *Dasyu*. There were only two classes of people inhabiting India in the past; one was known as *Arya* and the other as *Dasyu*, but in spite of this distinction of them were 'Hindus'. Hence, I would like to know what meaning should be attached to the word 'Hindu' in the Bill which is going to be passed into an Act now. After all how many persons have been consulted as has been mentioned in the report and as was stated by Shri Kunzru ? How many persons have given their opinions and how many of them have been included in it ? But I do not want to bring in all those things.

Dr. Bhagwan Das, while discussing the Marriage Validity Act, explained as to who was a Hindu. He said that Hindu was not merely a nationality. When '*Shariat*' Act was introduced in the House most probably in the year 1937, his *sufi* friend gave the definition of a Musalman which I read out here. While introducing the Bill in the course of his speech he said :

"Islam has scores of sects but the belief in Mohammed seems necessary for all, though I am told that some sects do not consider the second *part of Kalema* of faith as essential and indispensable and regard Mohammed as one of the many prophets sent by God to help humanity on earth."

While replying that point and repudiating that view Sir Yamin Khan (Agra Division) said :

"There is no Muslim who believes in this. It is essential for a Muslim to believe in both the parts of the *Kalema*, namely '*La ilaha illallah*' and '*Mohammed Rasulullah*'."

To this Dr. Bhagwan Das remarked "I have heard it from a *Sufi* friend". In reply Mr. Yamin Khan said : "Those who do not believe in the second part cannot be called Muslims."