

the State, without the authority of the police, without the authority of any legislature as such. There has been no governmental sanction behind the laws which have been in force. The laws were promulgated by men who had attained to perfection as nearly as man could, who were held in universal respect, who worked for the good of the people. And there was the sanction of what has been called in the *Shastras*, *Apoorva*, the unseen, that which will happen under certain circumstances; the thought that what one was doing today would have effect later on; that the human soul, the *jeeva* does not lead one life alone, but goes through a chain of births; that the actions of one life are inter-related to the actions and results of previous and future lives; that deeds of virtue and piety and righteousness bring a reward which is greater in reality than any reward of comfort or convenience which one may have in this life. A clear conception of the real value of things as distinguished from the ephemeral aspect, was always kept in mind, it is under the force of that sanction and that belief that the laws which were promulgated have always been followed. In the whole of this country, throughout its length and breadth, the law of the Hindus has been observed not because any one—for instance my esteemed friend Kaka Saheb Gadgil who is coming into the House and who talked on this Code, not like the elderly responsible man that we know him to be, but like a gay youngster who just utters what comes at that moment in the mouth, or any one else—found them to be comfortable or otherwise, found them to be pleasant or irksome, but because both Kaka Saheb and Govind Malaviya and the other 300 millions like them have been steeped in the conviction and belief that what they are doing today will have repercussions hereafter, that what they go through now will bring its own reward. They have been all bred up to believe that it is not *Preya* alone which matters in life, but that it is the *Shreya* of things which must be assiduously inculcated. That has been the shape of things in this country and in this society. Let not the Government make a thoughtless and hasty mistake in demolishing that fabric upon which the respect for and the adherence to the law has prevailed. If one set of legislators, one set of wise men or wiseacres today legislate in one particular manner as they think fit, people will have ceased to worry about *Apoorva*. People will know that it is possible for them the next day to get a law made to suit their pleasure and their convenience. The moral fabric will disappear and man might go back to the old age where there

was no method or system of marriages, where a state of things prevailed which probably, in decent society, would not be considered worth mentioning. That is the stake which is involved.

I should have liked to have dealt with the question of divorce ; I should have, liked to have dealt with the question of widow remarriage; I should have liked to have dealt with the question of inter-caste marriage; I should have liked to have dealt with the question of monogamy. I hope I will have opportunities as these clauses come up to deal with each one of these at the appropriate time. It is not for reasons of orthodoxy alone that this question must be considered. It is from the point of view of the over all interest and well-being of society that we should tackle these problems. I said society. Society means the whole group of people, all the inhabitants taken together. It is formed of the units, of the individuals. But, the unit and the whole, even though they are inseparably interdependent, have their own separate entity also. The body is made up of all the limbs. But, the hand has its own existence by itself; the head has its own. The body as a whole cannot be by itself without the hands, feet, legs and the head.

[SHRIMATI DURGABAI *in the Chair*]

But, the body is not merely the hand or the feet or the head. It is the sum total of the whole. When, therefore, we have to think of society, we have to think of the good and interest of society as a whole and if any thing is in the interest and well-being of all, then, whether it is pleasant or whether it is a little less pleasant for one individual here or one individual there, that must be adopted. When these topics come up, I hope I shall have opportunities to deal with them. I wished to say a great deal to bring out in clear perspective the issues involved, the fallacy or correctness of the approach made, and the conclusion to which we must irresistibly be driven. And right now, Madam, I should have had another advantage, that one esteemed Member of this House, in the very nature of things, being in the Chair, is now bound to be as fair to me as anybody else. But I said that I shall not take more time, and shall respect the wishes and the decisions of the esteemed Leader of this House. I will therefore close my speech, and close it with the earnest appeal that a matter of this seriousness, affecting the life of 300 million human beings should be considered as carefully and in as great a detail as may be humanly possible. There is only one formal thing which I must do now and that is to move

the amendments of which I had given notice three days ago. I beg to move :

(i) In part (a) of sub-clause (1) of clause 2, after “including” insert “Buddhists, Jains, Sikhs”.

(ii) Omit part (b) of sub-clause (1) of clause 2.

After the first amendment, the clause will read as follows :

“to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Buddhists, Jains, Sikhs, Virashaivas or Lingayats and member of the Brahmo, the Prarthana etc. etc.”

I have moved this amendment for a simple reason. I hope and pray that I am a devout Hindu—I do not know if I can make that claim— and

Dr. Ambedkar: After such a speech who else can make that claim ?

Pandit Malaviya : And in the *Sankalpa* which we perform on all occasions, we say *Bauddhavatare*. If only I had the time, I would have tried to show that Buddhism, Jainism, Sikhism etc., while they have their own independent place and position, cannot, by any stretch of imagination, be treated as outside the pale of Hinduism. That does not mean that Hinduism lays any claim upon them or wishes in any way to restrict their complete independence and separate existence. It is not that. I am talking of the historical relation. They have all sprung out of it and have always formed part of it. Even in their religious books and procedure, even in their daily practices and daily life, there are any number of points of identical similarity which still persist. In this land there should be no need, therefore, to show them separately. My amendment does not make any difference in the result. The clause instead of coming as a separate clause comes within the previous one.

I have now only to make an appeal to the Members of this House to view this matter dispassionately. As I said, I do not deny that there are some people who feel that it will be good for society if such a law is enacted. My appeal to them is to proceed in the right manner about it. Sometime ago there was the Inter-caste Marriage Act which was passed, making inter-caste marriages among Arya Samajists valid. At that very time Dr. Bhagwan Dasji, that great learned scholar and devotee of Manu, brought before the then Central Assembly, a Bill

for the application of that clause to the whole body of Hindus. That Bill was not proceeded with, and after long and careful discussion it was dropped. Inter-caste marriages among Arya Samajists had gone on for some decades and they had carried on their movement for a long time and when the same had become common and the time came the measure was adopted. Let us take a leaf out of that book. If social reforms have to be made, nobody can object to them, if all those who are concerned should desire to have them. Let us, therefore, adopt that course, if for nothing else, so that what you do may not remain a mere dead letter on paper without any effect whatsoever.

It has also been pointed out that because now we are only taking up the parts of the Code relating to marriage and divorce, we should consider the feasibility of making an All-India All-Community Code towards that end. I am not one of those whose argument is that if monogamy is good and is to be enforced for the Hindus, it should necessarily apply to everybody. I do not say that at all. If monogamy is good, then I want it for the Hindus whether it is applied to anybody else or not. I do not want to argue that if the rule of monogamy is good for the Hindus it should not come to them unless it comes for everybody else. That is for the others to decide and if they do not want it, let them not have it but if it is good for the Hindus let it come to them. (*An hon. Member*: Is it good ?) It is good and I think it is the only good thing ; but that, however, does not mean that we should become blind to the requirements of a good thing in itself or that we should not take other relevant facts and aspects into consideration. So far as the principle of monogamy goes I have no objection to it, Nobody can have any objection to it, and I should be unhappy if anything except monogamy is found in practice anywhere...

Giani G. S. Musafir (Punjab) : There is no harm in asking for all a thing which is good in itself.

Pandit Malaviya : I do not say that it should not apply to every body ; it is for the Government and for the others to think about the others. They have now brought forward a restricted measure dealing with only marriage and divorce and if they think that it is right to apply it to the whole country, let them do it. That is another consideration which the Government should certainly take into account.

Shri Bhatt (Bombay) : But can we Members not ask the Government that we wish it should be made applicable to all ?

Pandit Malaviya: Certainly. Many people have said it.

Giani G. S. Musafir: I think it is our duty to ask for it.

Pandit Malaviya: It is an important point which, I hope, the Government will consider.

Mr. Chairman : May I ask the hon. Member if he does not consider it desirable that we should practise it before we preach to the others and would we not then have a better or stronger case ?

Pandit Malaviya: Madam, I do not want to be so impertinent as to argue with the Chair. I will only close now by repeating my appeal that Members of this House will rise to the requirements of the position of responsibility which they occupy and will deal with this measure with that sense of gravity which it deserves, so that the immemorial and hoary traditions and foundations of the life of the Hindu community may not be tampered with or destroyed in a lighthearted or profane manner.

Shri Jajoo (Madhya Bharat): Madam, the question be now put. (*Interruptions*).

Babu Ramnarayan Singh (Bihar): I want to speak, Madam.

Mr. Chairman : I am not deciding the issue myself. I will leave it to the House. May I know what time the hon. Law Minister will take for his reply ?

Dr. Ambedkar: In view of the long speeches and the varied arguments advanced I would take about one and a quarter hours : possibly I might take even more, I do not know.

Chairman : If half an hour is taken for the amendments and the Law Minister is going to take one and a quarter hours for his reply we will have to conclude the debate by 11-30. Meanwhile if hon. Members are contented to confine their speeches to ten minutes, so that more hon. Members will be able to take part in the debate, I would like to conclude the debate precisely at 11-30.

Shri Naziruddin Ahmad (West Bengal): It was decided that the amendments will not be put to the House at all.

Pandit Malaviya : The Deputy Speaker said that he would call upon the Law Minister at 11-30. But since we have the time, other Members may be given an opportunity to speak and if you do not think it necessary, the rule about ten minutes may not be laid down.

Mr. Chairman : The hon. Member need not jump to any conclusion, that because a lady is in the Chair, therefore, she may not be fair to the House. I would like to respect the religious susceptibilities of the House as much as anybody else. The Deputy Speaker has told the House that half an hour would be taken for the amendments. It is true that the Hon. Minister will be called upon to reply at 11-30. There is also another traditional procedure, namely the closure motion. In view of these two facts I would like the debate to be concluded by 11-30 and not later.

Shri V. J. Gupta (Madras) : What about the closure motion ?

Mr. Chairman : Now that the House has agreed that the Hon. Law Minister is to be called upon to reply to the debate at 11-30, there is no necessity for the motion. Agreement is always better than closure and its acceptance.

***Khwaja Inait Ullah (Bihar) :** (*English translation of the Urdu speech*) After deliberating long, I had decided not to say anything about this Bill. I stick to this very decision of not speaking on the matter even today, whether or not Hindu Code Bill be passed. Well, it is a different thing altogether...

An Hon. Member : Do speak.

Khwaja Inait Ullah : I should say, but I do not want to. It is a different thing that our brethren also should treat their sisters and daughters in the same way as I personally do. But, as the name 'Hindu Code Bill' is attached to this Bill and it is said that this legislation is being formulated particularly for those following the Hindu religion, I feel that from the viewpoint of Religion, it is not proper for me as a Muslim to interfere in the social law of Hindus wherein they want to make, or are making changes.

An Hon. Member : It should be done as a human being.

Khwaja Inait Ullah : Yes, I am doing it as a human being, but while being a human being, I am an Indian and a Muslim also. It is, therefore, that I want to give out my impressions just in accordance with my own religion. All the amendments at hand now have compelled me to express my views, There is an amendment that all those, *viz.*, Muslims, Christians and others, who have been exempted from the operation of this law, be also included.

Shri J.R. Kapoor (Uttar Pradesh) : Only if they so desire.

Khwaja Inait Ullah : If they so desire, and also those who do not. Amendment No. 90 runs : “This Code applies to all Indians irrespective of their religion, caste or creed.” Likewise, it is also in 91, 92 and 93. Some members—my hon. friend Dr. Syama Prasad Mookerjee, especially while moving this amendment said at the very outset that “secularism” was spreading like a disease in India. I regret to say that my friend, who is so very capable, thinks secularism, which is not a disease but a cure, to be a disease and wants that all the laws under it be made uniform, *i.e.*, the laws that are made for Hindus be also made applicable to the Muslims. This is quite correct if it (the law) is a law of economy, a political law, influencing somebody’s character or the social life of India ; it should then definitely be one ; but secularism never means that such laws and personal laws be formulated as may be same for a Hindu and a Muslim. It means that the same will be said about Hindus as about Muslims, though it is not necessary so for a personal law as we have several laws which ‘differ from those of Hindus. Just yesterday a Sikh colleague of mine, said that their laws also differed from those of Hindus. I do not intend discussing that aspect of the matter, but I only submit about its application to Muslims.

Our Hon. Minister Gadgil said in his speech yesterday that he wanted to change the social law of the Hindus, and for changing this he advanced the argument, which I think he did successfully, that since this law has been seeing changes’, we are also entitled to change it. But he said furthermore that they would try in this way so that in the days to come the Muslims may be included. To him I would ‘like to submit humbly that they can change that law only because of the fact that the Hindu Law, as he proved, has been seeing changes. But here I want to tell him that Muslim law has neither been changed for the last 1350 years, nor shall it be changed in the days to come, since Muslims believe that their laws for marriage and division of property are not made by them but made by God and as they appear in the Holy Quran so nobody on the surface of this earth has the right to change them.

Sardar B. S. Man (Punjab) : Do the Muslims of the Punjab abide by the law of *Shariat* or the law of Custom, which is entirely different from *Shariat* ?

Khwaja Inait Ullah : If somebody says that the Muslims of the Punjab drink, does it mean that all Muslims will be allowed to take

wine ? If any Musalman does something bad, does it mean that all others will be allowed to do the same ? If any Muslim does not abide by the law of Islam, I am not prepared to make him do so, forcibly. He is at liberty ; he may go against his conscience, against his religion and against his society. But so long as his actions are not harmful to society, neither myself nor any Government can interfere in it.

Sardar B. S. Man : According to Islamic law a thief should be buried alive, or his hands should be cut off. Is this law observed in any Islamic country ?

Khwaja Inait Ullah : My friend Mr. Man has raised a reasonable question. If he sees me outside, I shall explain to him in a convincing way. Here I do not want to take any more time of the House. In Islam there is a permission for some laws, as to what extent they can be brought in line with the laws of the country. I can say to what extent Islam has allowed its laws to be brought in line with the laws of the country, and also the limit which should not be transgressed. I would like to submit to him that, if a thief in an Islamic country is not punished according to the Islamic law, there is a permission that we can change it; but some laws are such that we cannot change. I would, therefore, like to submit to these friends...

Most of my time was taken by my friends in their interruptions. I should also get that amount of time.

Mr. Chairman : That will not be made good.

Khwaja Inait Ullah : I was submitting that it is not a right course for this House to make for Muslims as well the law which to any extent goes against their religious commandments. This Bill can be passed with majority, but I do want to submit humbly that nobody perforce can be asked to follow a certain law. Majority should not compel us. I want that Muslims should not be compelled to agree to this law. Nobody will refuse to agree to the other laws of the majority.

Some of my friends said that all those who reside in India are Hindus. I take pride in calling myself a Hindu. I, too, say that all the inhabitants of India are Hindus. I am positively a political Hindu. Not from today but for the last twenty to twenty-five years I have been calling myself a political Hindu. Here I also want to say that apart from being a Hindu politically, I am and shall continue to be a Muslim by religion.

An Hon. Member : What are you racially ?

Khwaja Inait Ullah : I am Hindu. My forefathers were Brahmins and Brahmin blood is flowing in my veins—that pure blood which has not been mixed up so far.

Well, the sum and substance of my speech is that no such law as is against the Commandments of our religion and of God, be thrust on us, but as an Indian I shall have no objections to agree to any social or economic legislations.

***Kumari Padmaja Naidu** (Hyderabad): I welcome this opportunity of expressing my unqualified support for the Bill. I would like at the very outset to congratulate the Government on its courage in bringing forward this measure in spite of the widespread and fierce hostility towards it that has been so sedulously instigated by the forces of reaction that still, alas ! today dominate certain sections of this country. The author of this Bill does not stand in need of any words of praise from me. For, with this measure, whether this House chooses to accept or reject it, Dr. Ambedkar takes his place in the long line of social legislators who throughout the ages have laboured diligently, always in the face of opposition, often in the face of persecution, to eradicate social injustice and to enhance the sum total of human happiness.

For many years men and women throughout the length and breadth of this vast country have eagerly awaited the enactment of this Bill. They have watched with increasing alarm its decline from its original forcefulness because it was considered expedient for compromise after compromise to be made in order to win the maximum support for it. But even in its present and mutilated form this Bill is only comprehensive measure that has ever been shaped for the liberation of Hindu women from the age-old bondage of the unequal laws to which they are still subject. I do not ignore, neither do I make the mistake of over-estimating, the volume of protest from the poor deluded women whose ignorance and superstition has been exploited with subtle insidiousness by the vested interests of bigotry determined to defend their last bastions to the bitter end. What a tragic spectacle it is that we witness in India today of Hindu women allowing themselves to be hypnotised into denouncing the very measure that has been so carefully devised to secure for them the equality of laws to which they are entitled under the Constitution. But today it is neither as a woman nor as a Hindu that I plead for support to this Bill. I speak as an Indian, passionately jealous of the honour of India which is pledged not only to this measure but to every other form of social legislation necessary to redress grievous wrongs and to alleviate human

suffering arising out of unjust laws. So long as any section of the people of this country continue to be debarred, on the grounds of sex or caste or creed, from the full enjoyment of equal rights, so long will our Constitution continue to be a hollow mockery. And what of the freedom for which a long and gallant fight was waged, a fight that was shared by thousands of sensitive Hindu women who, for the first time in their lives, left the precious sanctuary of their sheltering homes. They came to the battlefield and stood besides their brothers and faced jail and lathi charges and often enough, humiliation, worse than death. If today those thousands of Hindu women who fought for the independence of India are to be denied their just rights, then our hard-earned freedom is no more than a handful of dust.

I have studied with some care the numerous speeches and statements that have been made by various Hon. Members of this House, far better qualified than I can ever aspire to be, to judge the technical legal implications of this Bill. I must confess that I have been a little surprised to find that with all their forensic skill and expert dialectic they have not been able to forge many weapons with which to bludgeon this Bill and none of them with sufficient validity of sanction to be lethal. We have all grown a little tired of having it proclaimed in every language, in every conceivable permutation and combination of phraseology of bearing it shouted day after day from the house stops and the market place and highways and by-lanes that this Bill threatens to destroy the very stuff and texture of the fabric of Hindu society. In a statement that unfortunately received nationwide publicity in America, a very distinguished hon. Member of this House has declared that this Bill is an attack on an ancient and gentle religion that has survived for five thousand years. He announced that because now the very structure of Hindu society was threatened, he intended "to fight and fight and fight against it". It passes my comprehension that anybody who is proud of calling himself a Hindu can talk or even think in such terms without realising that he is dishonouring the very religion that he claims to defend, as though any of the great religions of the world that have survived through centuries of human history could be endangered by social legislation or by any speeches or writings or other form of human endeavour. If there is any religion in the world that can be imperilled by these trivial things, then it deserves to be allowed to perish.

Speaking three days ago on the floor of this House, Dr. Syama Prasad Mookerjee described in very moving terms the immemorial beauty and wisdom of the teachings of Hinduism. He spoke of its comparable flexibility—I think he used the word adaptability—that had enabled Hindu philosophy to survive through centuries of foreign invasion and alien domination resisting wave after wave of the fiercest political and religious and economic onslaught. Surely, for all time to come Dr. Mookerjee has given the final answer to the futile and foolish argument that any social legislation intended to render justice to the under-privileged can imperil an ancient religion based on the loftiest conceptions of the sanctity and indivisible unity of all life.

Another serious charge which is sought to be levelled against this Bill is that by making legal provisions for divorce it will open wide the flood gates of immorality. It has been proved conclusively by speaker after speaker that there was provision for divorce even in ancient times. We are all aware that more than 75 per cent, of the Hindus in this country have always had the benefit of an easy and simple and effective system of divorce. So, this argument seems to lack any real validity and I think it has been employed merely to indulge in what is fast becoming a national pastime in this country that of disparaging the West and western ways. May I be permitted to express my regret at the growing 325 PSD. tendency in this country to make sweeping generalisations about the morals and manners of other races in other countries? This tendency is all the more deplorable because only too often hasty judgement is founded on insufficient knowledge, usually gleaned from the sensational publicity given to the doings of a handful of neurotics and decadents such as are to be found in every country of the world. Certainly, they are to be found in every big city of India. Dr. Mookerjee rightly drew our attention to a grave problem that is today troubling the psychologists of the West and that is the growing prevalence of psychoses corresponding to rise in the rate of divorce. But may I respectfully suggest to Dr. Mookerjee that if he would pause and ponder over this problem and analyse it carefully he will find that the psychoses are not the result but the root cause of much of the divorce in the West. In many western countries, particularly those that have been ravaged by the last two great World Wars, the entire equilibrium of life has been seriously disturbed. Acute economic distress, and a morbid obsession with the atom bomb and the imminence of another World War—all these cause

tensions that lead to both physical and mental insecurity. These inevitably result in a certain emotional instability which must of necessity have its repercussions on family life. But the fact remains that whatever may be the abnormal conditions in some countries, whatever may be the outward variations of morals and manners in different races, fundamentally the human race is the same everywhere and even today in every Country of the world the family unit continues to be the very core of human society. Normally balanced men and women value a certain grace and dignity in human relationships and they do not resort to divorce light-heartedly. It is only when they are driven to it as the only ultimate solution of a situation that has become intolerable that they resort to divorce. And if this be true of men, it is I think, a hundredfold more true of women. Because in this changing and unstable world, devastated by wars and revolutions and famines, where all standards of ethical values are wavering, where all national and international codes of morality are vacillating, there still remains one thing changeless and unchanging—one thing that is still today what it was at the dawn of creation and what it will be at the end of time. And that is woman's inherent consciousness of the grave responsibility that rests on her through her high destiny as the creator and guardian of the sacred flame of life. And perhaps in no other country of the world has that consciousness flowered in such perfection of beauty as in this ancient land of ours whose annals are rich with literature and legend inspired by the high ideals of our women. So, it is a little unworthy of us that we should talk lightly and flippantly about the capacity of the Indian woman to wear her freedom with dignity. To do so is to confess to a sad lack of understanding of the very genius of our race.

Some resentment has been expressed by hon. Members who have objected to the theory that this Bill should be passed merely because the eyes of foreign countries are upon us. I am in entire agreement with them. However much we may value the goodwill of other countries we cannot and will not shape our lives and legislation to suit anybody else's standards. But there is a far more valid and urgent reason for the passing of this Bill, and that is that our national integrity, our self-respect as people are at stake. Many of the Hon. Members of this House had the high privilege of drafting the Constitution of Free India. Upon them there rests the heavy responsibility of redeeming the pledges that are embodied in it and so the question of accepting or rejecting this Bill is the simple one of whether we affirm or deny the very fundamental principles on which our Constitution is based.

***Shri Brajeshwar Prasad (Bihar) :** I rise to offer my unqualified support to clause 2 of the Hindu Code Bill. While doing so, I would like to point out that if this clause is passed it will mean the perpetuation of a great wrong in Hindu society—the *immoral* distinction between legitimate and illegitimate children. The clause says that it applies to any child, legitimate or illegitimate. I know that it is not possible for the State to go to the extent to which I want the Government of India to go. I want the State to abolish the distinction between legitimate and illegitimate children. The stigma of illegitimacy dwarfs the personality of the child. It is inhuman and barbarous that millions of people in this country should suffer from psychological and social handicaps throughout their lives for no fault of their own. It may be urged that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. I submit that the Heavens will not fall if the institution of marriage is weakened in any way whatsoever.

Pandit Maitra (West Bengal) : Does the hon. Member want abolition of marriage ?

An hon. Member : No week-end marriage.

Shri Brajeshwar Prasad : The good that is done to society by marriage is great, but the harm that is done to society by illegitimacy is also very great and serious. I think that it is neither possible nor desirable for the State to strengthen the foundations of a discredited social order. I can very well conceive of a society where there is no marriage. The Platonic ideal of a community of wives and children is as valid a concept today as it was during the days of Plato. If we are sincere about our professions of secularism if we have any faith in secularism—let us be frank with ourselves—we must try to emancipate the institutions of property and marriage from the bondage of religion. It is true that the secular ideal has not been realised in any part of the world.

It is not secularism but Christianity that guides the institutions of marriage and property both in America and Europe. I am of opinion that the institution of marriage will not be weakened in any way if the distinction between legitimate and illegitimate children is obliterated ...

Mr. Chairman : I think the hon. Member may reserve these views to the marriage Chapter.

Shri Brajeshwar Prasad : I am not expressing my views on the marriage Chapter. I am only visualising certain objections that may be raised with regard to my suggestion that the distinction between legitimate and illegitimate children should be obliterated.

Shri T. Hussain (Bihar) : For the sake of information, may I know if my hon. friend is against legal marriage or not ?

Shri Brajeshwar Prasad : If I get an opportunity to speak on the marriage clauses, I am prepared to make the distinction clear. I do not think that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. For, what is the basis of marriage ? Why is the institution of marriage surviving ? It is old age—psychological enfeeblement of the mind and heart—which is responsible for the survival of the institution of marriage. It is not for the pleasures of sex ; it is not for the procreation of children that the institution of marriage exists in society. For, both these objectives can be achieved outside the bonds of matrimony. I am opposed to illegitimacy because it is an important cause of abortion, destitution, prostitution, delinquency, further illegitimacy, premature birth, still-birth, crimes, infanticide, venereal disease and cruelty to women and children.

I am not prepared to give my moral support to an article which tends to perpetuate the gravest crime that is done in our society.

***Shri B. Das (Orissa) :** At the outset I wish to congratulate Dr. Ambedkar on behalf of myself and all those reformists who are Members of this House and reformists outside for the bold step he has taken to codify the Hindu Law. He has shown great forbearance. He has been characterised as the Manu of our age. But he has been following the precepts of Buddha and showing greater forbearance in agreeing that only the Chapters relating to marriage and divorce be taken for the time being. I support the marriage and divorce clauses of this Code.

Great speeches have been made on the floor of the House. On the side of the Bill my hon. Friend Shri Gadgil made an excellent speech ; so also Pandit Kunzru. On the opposite side the speeches that have to be taken notice of are the ones of Dr. Syama Prasad Mookerjee, Sardar Man and my young friend Pandit Govind Malaviya.

Dr. Mookerjee perhaps forgot the fact that the intermediate stage in the line of reformists from Buddha to Gandhiji was held by great

Bengalis like Raja Ram Mohan Roy, Keshab Chander Sen and Ramakrishna Paramahansa. It is no good for the Bengali leader to cry a halt to these reforms. That is not the right way. Hinduism has been a progressive religion. The various *Smritis* and *Mimamsa*, are but a codification of Hindu law. As pointed out by my friend Shrimati Padmaja Naidu, who in her inevitable poetic way paid happy compliments to Dr. Ambedkar, our Constitution has given certain rights to women of India and Dr. Ambedkar is doing nothing more than giving effect to the intentions of the Constitution.

My hon. friend Sardar Man belongs to a great nation, the fighting nation that has saved and maintained the freedom of India. He however struck a discordant note by saying that the Sikhs are not Hindus. I had the privilege of working with many Sikh leaders. Let us, therefore, not harp on our differences on the Hindu Code Bill. But I may say that if the Sikh opinion is sounded, now or hereafter, they would never like to remain stagnant. If and when such opinions are taken, we will find that Sikh women are for progress and advance.

As regards Pandit Govind Malaviya, I have great affection for him, because I was a lieutenant of his revered and august father, the late Pandit Madan Mohan Malaviya. My memory goes back to the thirties when we were passing the Child Marriage Restraint Act on the floor of the House. The great seer that Pandit Madan Mohan Malaviya was, he saw the signs of the times and although he was sad that this House enacted the Child Marriage Restraint Act known as the Sarda Act, he never opposed it in such violent language and in such words of thunder as my young friend Pandit Govind Malaviya did.

Pandit Malaviya : Because these things were not proposed then.

Shri B. Das : True. But I was only quoting my own leader and his august father that he was for advancement and progress. That is all that I wanted to submit.

Shri A. C. Shukla (Madhya Pradesh) : For those who are weak, you cannot follow the highest ideal?

Shri B. Das : Those who belong to the orthodox and conservative school in India have helped us in passing the Constitution. They have helped us, though at times a little weakly, in the battle for freedom that we fought for so many years. Since 1947 we are all going forward. If “go forward” is our motto now, then nothing will stop the advancement and progress of India or any section of our community, be it Hindu, Muslim or any other. Therefore, instead of showing that

strong difference with us they should settle down to the view that India must progress as a nation, and if we are the first nation in Asia and are going to be the first nation of the world, they will help us to advance and progress and not deter us in any way.

I will conclude my speech by reminding the conservative friends in this House that this advancement of the Hindu Code and marriage laws is not a new thing. We have forgotten recent reformers like Sir Hari Singh Gour or Dr. M. R. Jayakar who have made specific indents into the old traditions and customs of Hindu laws, particularly marriage laws. So it is no use our saying that Dr. Ambedkar threw bombshell and a surprise at our consevative friends. We are progressing and Dr. Ambedkar has done one thing. He has faced the whole problem and not attempted piece-meal legislation. Yet to concede to our conservative friends the House is almost agreed to pass only one part of the Hindu Code Bill.

I support the measure.

***Dr. Ambedkar :** I think it is an extra-ordinary event in the history of this Parliament and, I believe, in the history of die past Legislative Assemblies that we should have been engaged in the discussion of a single clause for not less than seven days. I do not think there is any parallel to this. But in view of the fact that many Members have raised the point that this Bill touches part of their conscience, our Prime Minister in a righteous spirit has allowed them and also the Chair, the longest time that any Member might want to consume in order to express his mind on the subject, (*An Hon. Member* : Wrong). I have no complaint against that because it is much better that we should give to every individual, whether he speaks for or against, the fullest opportunity rather than create a feeling in the Members who do not see eye to eye with Government—to go home with a feeling—that they have been choked. I hope that, notwithstanding the fact that seven precious days have been spent in the discussion of this clause, when this clause is put to vote no Member will have a complaint on any such ground at all.

Babu Ramnarayan Singh : I have.

Dr. Ambedkar : The debate on this clause has as a matter of fact taken place in two parts. A part of the debate took place in the last session of Parliament, and this is a sort of a supplementary debate to the original debate. I am sorry to say that notwithstanding the fact

that I have paid the closest possible attention to the speeches which have been delivered in what I call the supplementary debate it has not been possible for me to find out what new point has been raised in the course of this supplementary debate which was not raised in the original debate. The only new factor which I have discovered in the course of this supplementary debate is the speech made by my friend Dr. Syama Prasad Mookerjee and another by our friend Mr. Man. Beyond that there has been nothing more than an expansive debate on points which were probably touched upon in the original debate.

With regard to Dr. Syama Prasad Mookerjee I have a feeling that it is not necessary to take him seriously at all. He has, it seems to me, no mind of his own.

Babu Ramnarayan Singh : have you ?

Dr. Ambedkar : I have, most certainly.

He was, as hon. Members of the House will know, a member of this Government practically for four years, during which this Bill has been placed before this House by the Government in office. I have not any recollection whatsoever, during the course of these four years when Dr. Syama Prasad Mookerjee was a member of the Government and when the Government had already sponsored this bill and put it before the House and it was in bits being discussed by Members of the House, that there was any single occasion inside the Cabinet when Dr. Mookerjee to my knowledge expressed the slightest difference of opinion on this Bill as against the Government.

Shri Syamnandan Sahaya (Bihar) : Is it open for the Hon. Minister to disclose what happened there or what did not happen there ?

Dr. Ambedkar : I am saying so. I remember also that in the earlier part, there were many party meetings held to discuss what should be done with regard to this particular Bill. I have a very clear recollection that in most of the meetings that were held, Dr. Syama Prasad Mookerjee was present and even then I do not recollect a single occasion when Dr. Syama Prasad Mookerjee—in the party which is an informal thing and where members of the Government are free to express their personal opinions, which they may not express outside on account of the joint responsibility—ever said anything against this Bill. It is, therefore, as I said, a matter of moods. (*An hon. Member : Conviction.*) Not at all. Either a man has a conviction or he has no conviction. That is my point. (*An Hon. Member : He has resigned from the Cabinet.*) I am sorry to say that he is to my mind

a very tragic case, a tragic case of a sober, good well-behaved man, who having joined the company of the drunkards rolls from side to side and has become an inebriate himself.

An Hon. Member : A good comparison.

Dr. Ambedkar : Secondly, I have been noticing the performances of Dr. Syama Prasad Mookerjee ever since he has left the Government and has become a member of the Opposition, in fact almost a leading member of the Opposition and I have noticed that he has developed the unfortunate mentality which sometimes Leaders of Opposition develop, namely to oppose everything that comes from Government. In view of that, when a person is not prepared to discuss matters on merits but wants to oppose for the sake of opposition, it is, I think, hardly worth one's while to waste one's time and breath in order to meet his argument. As I said, that is the reason why I do not propose to take what Dr. Syama Prasad Mookerjee has said in a very serious manner.

I, therefore, propose to deal only with the general points that have been raised by various speakers against clause 2 and generally against the Bill. The first point which perhaps is a new point is this, that there is really no necessity for the sort of Bill that we had brought forward. It is contended that the Hindu Society is a very ancient society, much more ancient than the Roman or the Greek Society and perhaps as old as the Egyptian Society. It has been contended that today all that we know about the Roman Society or the Greek Society or the Egyptian Society is their history ; they no longer exist; they have disappeared. The only ancient society which has survived is the Hindu Society and if the Hindu Society has survived while all other ancient societies have disappeared, then its laws, its social structure, its principles must be good. Otherwise, it could not have survived.

This is not the first time that I have heard this argument. I have heard this argument a long time ago and not only heard it from men in the streets, but men who have been occupying most eminent positions such as those who are called the historians of India. This is an argument which had been presented all the time by those who believe in the sanctity of the ancient structure of this society. I must very frankly say that I too have been a student of India's history, although I cannot claim that I am as good a student as many others who adorn the chairs of history in many of our universities. I believe, I have a sufficient understanding of the Indian history and the point that I would like

to raise is this. Is survival enough or whether it is necessary for us to consider whether the plane on which we survived is more important than the mere survival itself? A man who mixes with his opponent in battle vanquishes him, obtains victory on him also survives. A man who meets his opponent, runs away from him like a coward and he also survives. Is the survival of the victor of the same value, of the same character as the survival of a coward? I think we ought to consider this question on what plane has the Hindu society survived. (*An Hon. member* : Survival of the fittest). Yes, but on circumstances. Here my friends will forgive me saying so, when I examine the history of India, we have survived, yes, but we have survived as people who have been from time to time subjugated, vanquished and enslaved. (*An Hon. Member* : Who has not been?) Yes. My. Hon. friend asks me the question “who has not been?” There are many countries and many communities who have lost in battle, who have been enslaved but I would like to remind my Hon. friend that if he studies the history of all vanquished people, he will realise that some day, at some time, the vanquished people on other parts of the world have tried to achieve their liberty. I have not seen any such thing in this country. Therefore, the argument that merely because we have survived when other countries have lost and gone into history is one which does not convince me of the goodness or the soundness of the social structure under which we have been living. It has been said that the Hindu society has been a very progressive society. It was an argument which my Hon. friend, Dr. Syama Prasad Mookerjee expatiated at great length and he pointed out that so great a radical reformer like the Buddha was accepted by the Hindu society as a great figure and not only they accepted him as a great figure but they adopted and accepted some of the principles which he advocated in his life.

It is no doubt one of the great qualities of Hindu society to absorb some things from those who oppose it. But, my point is this. Has the Hindu society changed its structure as a result of the absorption of the doctrine of their opponents? Let me develop the position with regard to the Buddha. What did he preach? He preached equality. He was the greatest opponent of *chatur varna* ; he was the greatest opponent of belief in the *Vedas* because he believed in reason and . did not believe in the infallibility of any book. He believed in *ahimsa*, the Brahmanic society accepted some things. What did they accept? They accepted the most innocuous dogma of *ahimsa*. Nobody was

prepared to accept and they did not accept—they opposed—his belief in equality. Notwithstanding the fact that it has absorbed bits and bits of something which is of an innocuous character it did not touch the main thing on which they were all united namely to maintain *chatur varna*. That is the reason why notwithstanding this assimilative and adaptive quality, they have remained what they have always been. We have for long number of years waited to see whether Hindu society would, as a result of the absorption of the doctrines preached by great men who have been born in this country or great men born outside the country, change its social structure. Most of us, speaking for myself, have been completely disappointed. Whatever else Hindu society may adopt, it will never give up its social structure for the enslavement of the *Sudra* and the enslavement of women. It is for this reason that law must now come to their rescue in order that society may move on.

Pandit Malaviya: Move on to what even Buddha could not do.

Dr. Ambedkar: People have been saying that Hindu society has been changing. The question that I want to ask is this. Is this change in the direction of progress or it is a change in the other direction? Any one who has studied the history of Arya society from the very beginning to the present day will have to admit, if he is a fair student of history, that whatever change has taken place, it has been a deterioration. There was, as everybody knows, no caste system among the Aryans. There may have been some kind of *varna* system; but the *varna* system never came in the way of inter-marriages. You can find many number of cases of Brahmans marrying untouchable women. *Kashatriyas* marrying *sudras* and *sudras* marrying upper class women.

Pandit Malaviya: Which were the instances?

Dr. Ambedkar: I can give many instances if you will come to my room. I have got them.

Pandit Malaviya: Why not now?

Dr. Ambedkar: But, the Aryans never had a hide-bound social system of class division that was later introduced. Nobody can deny that has been a subsequent change.

You examine the position of Hindu women. Our Hon. friend Dr. Maitra. I think, who was a member of the Rau Committee, for the purpose of a thesis for a Doctorate degree of the Calcutta University wrote a book called *The Position of Women in the Hindu Shastras*.