

Any one who reads this book will find that women had an equal share in property with men. She was entitled to hold property. Even in Manu you find this statement. Today, what do we find as a result of the changes that have taken place in the Hindu society? Women are completely deprived of property. Do you call this change progress or do you call it deterioration ? Therefore, it is time, I think that we consider this question in a different light, the point on which I wish to proceed is the fact that unless law makes society move, this society will not move.

Another argument which was presented to the House was this : that we have no policy ; we have no principle ; we have nothing on which we are proceeding; the only thing on which we are proceeding is a kind of imitation of the western nations. It is said that because the western nations have monogamy, because the western nations have divorce or because the Chinese are trying to do something along that direction, we, in order to put ourselves in the good books of the world at large, are trying to do something along the lines which they have been doing. They have said that our ideal should be, what ? Somebody said Ram ; somebody said Dasaratha; somebody said Krishna ;somebody said this, that and the other. I do not wish to comment upon any of the ideals which have been presented to the House, and I do not ...

Shri Syamnandan Sahaya : You will be well advised not to do so.

Mr. Chairman : Order, order.

Dr. Ambedkar : My ideals are derived from the Constitution that we have laid down. The preamble of the Constitution speaks of liberty, equality and fraternity. We are therefore bound to examine every social institution that exists in the country and see whether it satisfies the principles laid down in the Constitution. Now, so far as your sacramental marriage is concerned, forgive me, I am quite convinced in my own mind that no man who examines mat institution in a fair, honest and liberal spirit can come to the conclusion that our sacramental marriage satisfies either the ideal of liberty or of equality. What is the sacramental ideal of marriage ? Sacramental ideal of marriage described in as few words as possible, is polygamy for the man and perpetual slavery for the woman.

An Hon. Member : Wonderful description.

Dr. Ambedkar : That is so because under no circumstances can a woman get her liberty from her husband, however bad he may be,

however undesirable a person he may be. I want to put one question to the House. Are we for slavery or are we for free labour? What are we for? Now, in all economic matters, we have all along been insisting that there must be free labour. Slavery we shall not tolerate.

An hon. Member : Is this slavery?

Dr. Ambedkar : Now, what is the difference between slavery and free labour? I think if you examine it carefully, you will come to the conclusion that free labour means the ability and the capacity to break the contract when the necessity for breaking the contract arises.

Shri R. K. Chaudhari (Assam) : And is this a contract?

Dr. Ambedkar : Yes, I shall come to that.

Therefore, if the woman under the sacramental marriage is to get her freedom, then circumscribe as you may, the conditions for her getting her freedom, and as I said, I shall be quite prepared to consider any proposal that may be made by any Member from any side of the House to narrow down the conditions of divorce that have been prescribed in the Bill as it stands. But if you mean to give liberty—and you cannot deny that liberty in view of the fact that you have placed it in your Constitution and praised the Constitution which guarantees liberty and equality to every citizen—then you cannot allow this institution to stand as it is. That is the reason why we are proceeding with this Bill and not because we want to imitate any other people or we want to go in for our ancient ideals which are to my judgement, most archaic and impossible for anybody to practice.

Dr. C. D. Pande (Uttar Pradesh) : We are ready to support the Bill, but we do not want these invectives. How far the Hon. Minister is justified in dealing with this subject and resorting to such invectives. I do not know?

An hon. Member : Why vilify the Hindu religion?

Dr. Ambedkar : Now, I come to the specific amendments that have been tabled by various Members to clause 2.

Shri Krishnanand Rai (Uttar Pradesh) : The House is for divorce and monogamy, but not for this kind of abuse.

Dr. C. D. Pande : We are for these provisions, but we do not want these abuses and invectives.

Dr. Ambedkar : If you had said that before, I would not have made this speech at all and not spent seven days over this Bill.

The Prime Minister (Shri Jawaharlal Nehru) : I am rather surprised at the tender skin of some of the hon. Members. We have had to put up with a series of speeches and things have been said

which have hurt us very much. If that has not been objected to, then I think it is expected that those who disagree with Dr. Ambedkar should¹ not object now.

Pandit Maitra : We have been listening with rapt attention to Dr. Ambedkar, but what we do not want is these invectives and reflections on some of the best ideals which we cherish. The provisions can be defended without injuring the religious susceptibilities of Members.

Mr. Chairman : I do not think there is any need for excitement. As the Prime Minister has said, many Hon. Members who had spoken had said so many things, and naturally when the Hon. Law Minister is replying, he has to make certain statements, and he deserves to be heard.

Dr. Ambedkar : Now, I come to the specific amendments that have been tabled to this clause. As you will observe (*Interruptions*).

Mr. Chairman : I do not want side conversations to go on across the benches.

Dr. Ambedkar : There is one general amendment, that this Bill should be made optional. This amendment has taken various shapes and forms. In one shape it means that the Hindus to which this Bill is made applicable, should be allowed option either to have it applied to them or not be applied to them. Another shape in which the same amendment has come is that if any other people, such as for instance the Muslims, to whom this Bill does not apply, desire that the Bill should be applied to them, there should be provision in it to that effect. The other shape which this amendment takes is that it should be left to the States to apply or not to apply this Bill. Now, I will deal with the general amendment in all the three shapes in which it has been presented to us.

With regard to the first aspect of the matter, that its application even to the Hindus should be optional. Last time, the Deputy Speaker came to the rescue of many Members by pointing out that there was a precedent for a thing like this. I think hon. Members will remember that he referred to the *Shariat* Act and the Khoja Momin or Khoja Act, and therefore, he said there was no danger or anything strange in making a similar provision so far as the application of the Bill to the Hindus is concerned. Since that time, I have spent much time in examining whether the statement made by the Hon. Deputy Speaker—I am sorry he is not here—is true in fact. And I find that this has been a sort of lapse of memory on his part.

Shri Syamnandan Sahaya : Are you criticising the Deputy Speaker's ruling or are you criticising the remarks of Shri Ananthasayanam Ayyangar ?

Dr. Ambedkar : I am dealing with the statement of Shri Ananthasayanam Ayyangar. I am glad the hon. Member is so technical today.

Shri Syamanandan Sahaya : I am, so all the time. But the Hon. Minister is taking advantage of his position as a member of the Cabinet.

Dr. Ambedkar : I find that in the course of the debate on the Bill which took place in the year 1937, my Hon. friend Shri Ananthasayanam Ayyangar himself raised this question about the applicability of the Bill and I find that his speech is spread over practically to two pages here. As I said, he raised this very question whether that Bill was going to take away the option that was given to the Khojas. He put this question direct to Mr. Jinnah, because as the House will remember, the *Shariat* Bill was not a Government Bill. It was a private Member's Bill which was brought in and practically Mr. Jinnah was in charge of that Bill. And Mr. Jinnah had given an absolutely categorical answer to Shri Aanthasayanam Ayyangar that not only was that Bill compulsory, but even the option given to the Khojas would be taken away by that Bill.

Pandit Maitra : Why not inform the House of the background of that Bill also ? I was there when the Bill was being discussed and I know that Mr. Jinnah wanted the Muslims not to be governed by any Hindu law at all.

Dr. Ambedkar : I can give the book, it is here, and anyone who wants to read the whole debate can do so. I cannot spend any more time on this because I have to deal with the amendments.

Shri J. R. Kapoor : That debate is of which year ?

Dr. Ambedkar : 1937. The only difficulty that ...

Shri Bhatt : Was that *Shariat* Bill passed, or referred to a Select Committee or dropped ?

Dr. Ambedkar : The Bill was passed and it was decided that no option was to be given.

The only difficulty that arose was that when they introduced clause 3, it was introduced in the House without the assistance of the draftsman and what happened was that they introduced the word "Act" instead of referring to it as "clause". That defect was cured by my friend Mr. Kazmi, who brought in a Bill in 1943 and substituted the word

“clause” for the word “Act”. Therefore, the ground that there is a precedent, I submit, falls through.

[12 Noon]

Shri J. R. Kapoor : May I bring to the notice of the Law Minister that this Act of 1937, I suppose, repeals the previous Kutchi Memon Act, according to which option was given and what the Deputy Speaker as a Member of this House brought to notice was that there was, in fact, in force for a number of years a legislation which gave option.

Dr. Ambedkar : That was before, that was taken away.

Shri J. R. Kapoor : All the same for a number of years that sort of legislation did hold good. That was the point made by him.

Dr. Ambedkar : We are discussing the question whether the 1937 Act gave an option. That is the point.

Shri J. R. Kapoor : Mr. Ayyangar's point was that the 1923 Act gave the option.

Dr. Ambedkar : I am sorry I cannot give way.

Mr. Chairman : If there is any inconsistency in the speech hon. Members may bring it up at a later stage, when there will be a good deal of opportunity.

Shri Amolakh Chand : What is the latest position now ?

Dr. Ambedkar : No option.

Shri Naziruddin Ahmad : There was option for a long time.

Dr. Ambedkar : For Cutchies.

I will take the proposal to grant option. Apart from precedents what would be the consequences ? Suppose we adopt this proposal of giving option. Hon. Members will remember that there are certain States like Bombay and Madras, where the legislature has enacted laws regulating marriage and divorce. In those two Acts there is no option whatsoever given. They are compulsory on every body who resides or is domiciled there. If we adopt this law, it being a central law, it will supersede the laws of the provincial legislature in so far as it is inconsistent with those laws, by reason of the fact that this is legislation in the concurrent field. The one consequence will be that whatever progress the States of Bombay and Madras have achieved in the matter of monogamy and divorce will be completely destroyed.

Shri Gautam (Uttar Pradesh) : What will be the position of the Muslims in Bombay ?

Dr. Ambedkar : It applies to the Hindus only. I will shortly come to the Muslims, do not worry. I will not run away from the point. Therefore, the one consequence will be that the two States which have achieved a certain degree of social advancement will be set back.

Shir R. J. Kapoor : Keep it alive.

Dr. Ambedkar : How can you ?

Shri J. R. Kapoor : By saying “Save and notwithstanding anything contained herein this Act will ...”

Dr. Ambedkar : That will be fantastic legislation just to satisfy my hon. Friend. So this consequence has also to be taken into consideration.

What is the position today ? Certain States have laws relating to monogamy and divorce. Certain other States have no such legislation. The one thing that has to be remembered is that under our Constitution no State has got extra-territorial jurisdiction. The law applies either to the resident when he is resident there or to a person who is domiciled. If a person marries in Bombay he shall have to marry under that State's Act. If he wants to divorce his wife on grounds which are not permitted by the Bombay law, he can easily go to U.P., where no such law exists, divorce his wife and marry again, thereby altogether destroying the validity of the Bombay legislation. It is something like prohibition. An isolated State cannot have prohibition. If it is to be there it must be all through, so that no man can go to another State and break the law of the State in which he resides normally. Therefore, in this case either there should be no legislation and leave things as they are or if you want legislation, it must be an all India legislation, so that no man or woman would be able to break the law.

The third difficulty is that although they have tabled amendments to the effect that option should be given, they have not indicated the nature of that option. Are women to have the right to make an option or not ? If the father makes an option that this law applies to him, does his option apply to his son and progeny ? If the husband makes an option under this law, will it apply to his wife by reason of the fact that she is his wife ? If the husband does not apply it to himself, will the wife be free to do so ?

Shri Bharati (Madras) : All confusion.

Dr. Ambedkar : It would be utter confusion, if such an amendment was adopted.

Shri J. R. Kapoor : What does the proviso to clause 2 say ?

Dr. Ambedkar : I am afraid I cannot add any such proviso. Our law may be deformed in some way but it should not altogether be unaesthetic ; It must be good to look at.

I now come to the other aspect of the argument, namely of allowing other people to have the law apply to them. I should not have dealt with it but for that fact that Dr. Mookerjee referred to the fact that this law was not made applicable to Muslims. He charged the Government with either want of sincerity or want of courage that they can never bring such a legislation so far as the Muslim community is concerned. With regard to this matter, Members have said that we are enacting a piece of legislation which is discriminatory for the simple reason that the Hindus today have the right to marry more than one woman and the Muslims have a right to marry four but that we are taking away the right of the Hindu leaving the right of the Muslim unaffected. That they say, is discrimanatory. With all respect I would invite the attention of Members to article 25 of the Constitution, which says:

“Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess practise and propagate religion.”

I want to draw the attention of Members to the words “the right freely to profess and practise their religion”. I am not concerned for the moment with propagation of religion.

Last time when I spoke on this Bill, I made it quite clear that in our country, fortunately or unfortunately, the profession of a particular religion carries with it the personal law of the person. You cannot get away from that position. Similarly, when you say to a Muslim that under the Constitution he is free to profess and practise his religion, we are practically giving him the right to practise his personal law. In view of the fact that the Constitution allows different communities to practise their religion and incidentally also to have their personal law, there is nothing discriminatory in allowing one community to have their own law or to modify it in the way they like and to treat the law of the other community in a different way or to modify it.

Pandit Thakur Das Bhargava (Punjab) : According to Hindu law a person can marry more than one wife, according to Mahommedan law also a person is entitled to have more than one wife, but there

is no obligation on any Muslim to have more than one wife nor is there any obligation on any Hindu to have more than one wife. The personal religion of both is the same on this point. Similarly, it is not enjoined upon a Mussalman to practise child marriage, nor is it enjoined upon a Hindu to practise child marriage, for the *Smriti* and the *Hadis* of both say the same thing on this point. Therefore, the Child Marriage Act was applied to the Muslims also. It is not going against the Muslim law or the *Shariat* law if we make this law applicable to them today. So far as article 25 is concerned you will not be following this

Dr. Ambedkar : I am answering the other argument that we are making a discrimination. To that I am giving the answer that the Constitution permits us to treat different communities differently and if we treat them differently nobody can charge the Government with practising discrimination. That is the point. That being so, another thing I would like to tell the House is that article 25 is an article of great importance, for this reason. As the House will remember, all throughout the history of Europe there has been a great contest between the Church and the State. The State has said that the Church shall not interfere in religion and that the State is supreme over Church. The Church, on the other hand has said that the State is subordinate to the Church, it is only when the Church permits that the State can enact. That has been the general position. In our Constitution we adopted a middle course ; the course that we adopted was this, that while we will permit people to practise and to profess their religion and, incidentally, to have their personal law because the personal law is so imbedded in their religion, yet the State has retained all along in article 25 the right to interfere in the personal law of any community in this country. There can be no argument against that. That is my point. The only question is the time, the occasion and the circumstances.

I want to assert in this House while I am here that I shall hear no argument from any community to say that this Parliament has no right to interfere in their personal law or any other laws. This Parliament is absolutely supreme and we deal with any community so far as their personal law is concerned apart from their religion. Let no community be in a state of mind that they are immune from the sovereign authority of this Parliament.

Shri A. C. Shukla : You pass a law but cannot administer it.

Dr.. Ambedkar : The point really is a very narrow one and that point is this ; whether right now we should make our Bill applicable

to the Muslims—the Hindu Code Bill which has been professedly, deliberately, calculatedly intended to apply to what is called the Hindu community.

Shri J. R. Kapoor : Non-Hindus also.

Dr. Ambedkar : We have been, in making this kind of a legislation, observing a certain necessary procedure as a condition precedent. In all social legislation the Government usually—as a matter of convention and, if I may say so, binding convention—observes the rules of consulting the people affected before any particular piece of legislation is undertaken. Hon. Members well know that with regard to this very Bill there was a Committee which went round from Province to Province, from State to State, took evidence from every section, every community, individuals, organised people, to find out what their opinion was. Nobody can say that so far as this particular Bill is concerned, any Committee or Government at any time consulted the Muslim community—that we are going to enact monogamy and reform the law of divorce so far as the Hindus are concerned, that these are the provisions that we propose to apply to them, what have you to say about it? No such step has ever been taken and I think it would be not only unwise but a most tyrannical piece of political action to subject the Muslim community to any such provision without their being consulted beforehand.

Pandit Maitra : Why did you not do it beforehand?

Dr. Ambedkar : The reason why we did not is because some communities like the Hindu community needed the reform so badly—it was a slum clearance.

Pandit Maitra : You had not the courage to do it.

Dr. Ambedkar : This is a slum clearance.

Shri Syamnandan Sahaya : Did you consult the Sikh community?

Dr. Ambedkar : Oh, yes. I am dealing with it. Do not be impatient. I have consulted them. Do not you make a mistake.

Shri Bhatt : Can the Hon. Minister state whether or not, if Parliament so desire, the opinions of Muslims and Christians may still be ascertained? What is the obstacle to it?

Dr. Ambedkar : The obstacle is that the meal has now been served on the table. Let us take it now. It will take time in inviting others. At the same time we do not have so much food as may be offered to others.

Mr. Chairman : I do not want Hon. Members to go on interrupting throughout the length of the debate.

Shri Bhatt : These are sweets which can stay for days together.

Dr. Ambedkar : Regarding the other part of the option, namely that it should be left to the States, in one aspect I have already dealt with it. Suppose some States enact such laws and some States do not, the chaos to which I have already referred would be there and I do not think we could allow any such option to States which would result in chaos in such fundamental matters as marriage and divorce. In this connection I should like to say this that although it is true that the Rau Committee did not visit the Part B States, still when the informal conference took place, I did take care to invite certain representatives of the Part B States. One of them was the Chief Justice of Saurashtra, the Advocate-General of Mysore, I think, was there ...

Shri Bhatt : How is it that the Chief Justice of Saurashtra is taken to represent Part 'B' States ? He was in the service of the State.

Dr. Ambedkar : He knows the conditions prevailing there).

We have done that. Now I come to the question of the Sikhs. My friend, Syamnandan Sahaya has gone away somewhere ...

Shri Syamnandan Sahaya : I am here, very much so, Dr. Ambedkar.

Dr. Ambedkar : Now I come to the question raised by my friend, Mr. Bhopinder Singh Man. His amendment is that this Bill should not be applied to the Sikhs. Well. I have nothing personal to say about this amendment because his amendment is not in any sense solitary as compared with the other amendments which have been tabled by our friend, Mr. Naziruddin Ahmad omitting the Buddhists, Jains, Sikhs, and so on. It is perfectly legitimate for anybody to put forth his view point, but I think the Hon. Member will allow me to say that the tone of his speech was to me very repugnant and I think hurt me a great deal.

Sardar B. S. Man : *rose*—

Mr. Chairman : I do not want Hon. Members to go on interrupting him.

Shri Syamnandan Sahaya : If the Hon. Minister indulges in such remarks against those who oppose the Bill, we are entitled to interrupt him.

Mr. Chairman : Order, order.

Shri Syamnanda Sahaya : If he goes on like that, the situation may become worse.

Dr. Ambedkar : I am entitled to express my opinion.

Mr. Chairman : Order, order.

Shri R. K. Chaudhari : Why don't you ask the Minister to sit down?

Mr. Chairman : What is the meaning of this ? There is a regular uproar. Hon. Members must maintain order.

Shri R. K. Chaudhari : If the Hon. Minister does not sit down, does that mean order ? You only want to control us; not others.

Dr. Ambedkar : My point is this (*Interruptions*).

Sardar B. S. Man : I take his retort in a sporting spirit. His speech is equally repugnant to us today.

Dr. Ambedkar : I am prepared to accept that.

Mr. Chairman : All that I can say is that Hon. Members should have left it to the Hon. Members concerned to whom the Minister's remark refers.

Dr. Ambedkar : My point is very simple. There can be no dispute that Indians as such are excluding the Muslims ...

Shri Sondhi (Punjab) : They are not Indinas. Is that so ?

Dr. Ambedkar : Let me go on in that way, because I do not find exact qualifying words. We non-Muslims, so to say, are not a very united family. I do not think it is desirable to take an unrealistic view and say that we are all one. We are not. But I do say that we ought to make an attempt to come together as far as we possibly can, and we ought not to sow the seeds of discord all the time. When anything of a unifying nature comes before the House, if somebody gets up and says. "Well, we do not belong to this group and we do not want to be governed by this law" ...

Sardar Hukam Singh (Punjab) : Why did you not appeal to the President when he was making a declaration as to who would be the Scheduled Castes ? He has made that distinction.

Dr. Ambedkar : It may have been done because of his generous spirit, if you will remember what happened.

Now, that is what I do not like. In my judgement, we ought all of us to make a very sincere attempt to come together, at any rate. Each one of us may have our religious beliefs. One may believe in a God and one may believe in a soul. Those are spiritual matters. But is it not desirable that notwithstanding the differences that we

may have so far as our beliefs are concerned, we should try to evolve one single system of law by which we may be bound in our interrelations ?

Sardar Hukam Singh : Should this not start from you ?

Dr. Ambedkar : Why should you all the time keep on saying. “I am different. I am not governed by this and I am not governed by that. Therefore, do not make your law binding upon me”. That is the point of my protest.

Shri A. C. Shukla : Natures differ.

Dr. Ambedkar : The gravamen of my hon. Friend Sardar Man’s charge was this that the Sikhs have not been consulted in this matter. My answer to his point is two-fold. If the Sikhs, have not been consulted as Sikhs my contention is that there was no necessity to consult them ...

Sardar B. S. Man : Oh !

Dr. Ambedkar : Please let me continue.

.....because all along the law has assumed that the Sikhs for the purposes of law are Hindus. I have examined Mulla’s *Hindu Law* which is a very handy volume and if my hon. Friend were to refer to the index to that volume he will find certain Acts passed by the Legislative Assemblies of this country to amend the Hindu Law, he will find any number of them. But I would like my hon. Friend to point out to me whether in respect of any of those laws which have been enacted by this Parliament effecting a change in the Hindu Law—and made applicable to the Sikhs—they ever consulted the Sikhs or they ever omitted the Sikhs.

Sardar Hukam Singh : Because custom prevails there.

Dr. Ambedkar : I do not find any such instance of consultation at all. Whenever a law has been passed to amend the Hindu Law, it has been made applicable to all persons who have been by frequent judicial interpretation included in the term ‘Hindu’.

Pandit Maitra : Then what is the necessity of putting it here ?

Dr. Ambedkar : Because men like you might doubt.

Now I come to the other part and wish to prove that the charge that the Sikhs were not consulted is not founded on facts. I have taken the trouble of going through the evidence taken by the Rau Committee when it toured and went to Lahore. I find that the following persons appeared or made statements before that Committee. The first person to whom I wish to refer is Justice Teja Singh of the Lahore High

Court. He, as a member of the punjab High Court, wrote a statement for the Rau Committee. I have gone through the main part of it but I have not found any single statement by Justice Teja Singh that this law should not be applied to the Sikhs. I do not know whether my hon. friend accepts that Justice Teja Singh has some right to speak in the name of the Sikh community.

The other gentleman whose name I find from the records is Sardar Varyam Singh. He came as a representative of the Akali Darbar and no doubt he said that this Bill should not be applied to the Sikhs, because the Sikhs, he contended, were a more liberal people.

Sardar Hukam Singh : Who was this gentleman? Is there any description given about him?

Dr. Ambedkar : Secretary of the Akali Darbar—that is the description that has been given in the records.

The other person who had given evidence before the Rau Committee was Sardar Iqbal Singh. He was a lawyer and he came in his individual capacity.

(Mr. Deputy Speaker *in the Chair*)

Sardar B. S. Man : What did he say?

Dr. Ambedkar : He said nothing.

Sardar Hukam Singh : Then he can be safely quoted !

An hon. Member : Let him read his statement.

Dr. Ambedkar : Here is the record. You can have the whole information you want. He said nothing against this Act being applied to Sikhs.

Then Sardar Harnam Singh, at present Judge of the Punjab High Court, came and gave evidence, not in his capacity as a Sikh but in his capacity as a representative of the Bar Council. There again, he raised no such question at all that it should not be applied to the Sikhs.

Sardar Hukam Singh : But what was his opinion about the Hindu Code Bill ?

Dr. Ambedkar : He has not opposed it.

Now, I come to an important circumstance to which I would like to make definite reference. The House will remember that after the Bill was introduced in the House by Mr. Mandal—and it was introduced after the Rau Committee's investigation was complete—even then Government promised that they would issue an executive circular to the various provincial Governments and invite their opinion on the Bill as introduced. That circular was also sent to Punjab.

Shri Sondhi : In what year was that ?

Dr. Ambedkar : 1947.

Shri Sondhi : Before the partition ?

Dr. Ambedkar : No. After the partition, because the letter has been issued to the East Punjab Government. I will give the substance of the letter from the Home Secretary to the Government of East Punjab to the Secretary to the Government of India, Legislative Department, New Delhi, No. 211, dated the 3rd October 1947. In that the following statement is made:

“I am directed to forward a copy of the letter so and so from the Registrar of the High Court of Judicature, Lahore, reporting the views of the Hon. Judges, etc. The Punjab Government also invited the views of the Commissioners and Deputy Commissioners, the High Court Bar Association, and five divisional headquarters, as well as of the nine selected non-official organisations believed to be representative of the Hindu and Sikh opinion. Only one of the latter Shri Sanathan Dharma Prathinidhi, Lahore, replied.”

I do not think in the face of this my hon. friend can say that no attempt was made to canvass the opinion of the Sikh community. My Hon. friend also said that of the seven members consulted six opposed it. He may be knowing something more about it. I am however entitled to say that before my Hon. friend made his speech, I had one or two conversations with him. He told me that he was particular about the Anand marriage, or the customary ceremony and I told him that although we were passing this Bill, we are not abrogating the Anand Marriage Act which has been passed by the Assembly in order to regularise certain ceremonies which the Sikhs perform for the solemnisation of their marriage and I thought that he was perfectly satisfied with that. But it may be that some other reason has come to the surface which has made him to give rise to these hidden feelings which otherwise might have remained locked up in his breast.

My. hon. Friend read out a judgement of Dr. Bakshi Tek Chand— it is reported in 10 Lahore. Kabul Singh's case. I have examined the facts of this case and the rationale of the case. The only point of dispute was whether a marriage between a *Jat* Sikh and a *Mazhabi* woman was a legal marriage or not. It was contended on the other side that it was not a legal marriage because the *Jat* belonged to a superior class and the woman belonged to an inferior class and inter-caste marriages were not allowed. Mr. Justice Tek Chand held that the *Jats* were *sudras* and the rule that applied to *thraivarani* did not apply to *sudras* and the untouchables are treated by *Shastras* as *sudras*. It is a marriage between *sudras*. Therefore, it is valid.

Sardar B. S. Man : There is difference between an untouchable and a *sudra*.

Dr. Ambedkar : But that is the decision of the court, my hon. friend. The courts have treated both as *sudras* and you know very well there is distinction on that point.

The only point on which my hon. friend could rely was that the Sikhs are liberal and that they do not observe caste. Well, on that ground he ought to welcome this, because we are abrogating caste throughout. Therefore, it is in no sense in conflict with what is happening in the Sikh community.

Sardar Hukam Singh : Our complaint is that we are far in advancer of the stage to which you say you are bringing us up. Please do not pull us down.

Dr. Ambedkar : Different people have different notions about advancement and I have my notions about it. Advance may also mean no law—anarchy—that also may happen. I think I have dealt with all the points that have been raised by the various speakers on their amendments.

Pandit Thakur Das Bhargava : Are you not perpetuating the caste system by accepting the proposal that caste *panchayats* should decide divorce cases?

Dr. Ambedkar : Why talk about it when we have not reached it? We have not reached that. We shall see it then. For the moment I have dealt with all the points and given reasons why it is not possible to accept any of the amendments proposed by hon. Members. The only amendment that I am prepared to accept is the amendment moved by Dr. Bakshi Tek Chand by which he proposes to substitute the word “followers” for “members”.

Shri Naziruddin Ahmad : May I have your permission to correct; a ‘mistake which has crept into the debate in the speech of Dr. Ambedkar ? (*Interruption*).

Mr, Deputy Speaker : If he makes any particular mistake it is for him to correct it. The hon. Member will point it out to me. It is not necessary to speak on that. Exception of that kind can be taken to whatever he has said in his speech but it is not our business to go on correcting the speeches.

There are a number of amendments that have been tabled. Hon. Members might have forgotten what the amendments are that have

been moved. I have, therefore, put these amendments into groups according to the subject matter and also according to the clauses.

The Minister of Works, Production and Supply (Shri Gadgil):

There are two amendments moved to this clause by the Hon. Minister himself.

Dr. Ambedkar : There are only two amendments.

Mr. Deputy Speaker : I am referring to all the amendments. Certainly, those amendments which the Hon. Minister has himself moved and the one standing in the name of Dr. Tek Chand which the Hon. Minister is willing to accept, will be borne in mind. It is my duty to place before the House what exactly the amendments are on which they are called upon to vote for or against. Instead of going into the details, and for purpose of convenience, I shall put the amendments in each group one by one. I shall take the group : “application to all Indians compulsorily”, that is not only to Hindus but Buddhists, Jains, non-Hindus, Muslims, Christians etc. who come under the operation of this Bill.

The question is:

For clause 2, substitute :

“2. *Application of Code.* —(1) This Code applies to all Hindus.

(2) The expression ‘Hindu’ in this Code shall, unless otherwise provided, mean a citizen of India.

(3) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code.”

The motion was negatived.

Mr. Deputy Speaker : The question is :

For clause 2, substitute :

“2. This Code applies to all Indians irrespective of their religion, caste, or creed.”

The motion was negatived.

Mr. Deputy Speaker : Shri Jhunjhunwala’s amendment for substitution of clause 2 is barred as the House has already decided upon this.

Then, I come to the other set: that this Code should apply only to those who make a declaration, and even then, the parts that are declared should apply.

The question is :

For clause 2, substitute:

“2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government.”

The motion was negatived.

Mr. Deputy Speaker: The next two amendments of Shri J. R. Kapoor also go with his amendment negatived just now. They are also therefore deemed to be negatived. Then, the question is:

In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with “unless such persons” to the end, substitute:

“unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.”

The motion was negatived.

Mr. Deputy Speaker: The question is:

To clause 2, add the proviso :

“Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such minor attains majority.”

The motion was negatived.

Mr. Deputy Speaker: The question is:

To clause 2, add the proviso:

“Provided that the provisions of Parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisions, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration.”

The motion was negatived.

Shri J. R. Kapoor : Sir, in view of the changed circumstances of the case, I would request leave of the House to withdraw my amendments Nos. 97 and 272. But all the same I would like to move at a later stage, an amendment, when we know how exactly this Part stands when we have gone over the whole of this chapter relating to marriage and divorce.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker : Then there is amendment No. 336 standing in the name of Shri J. R. Kapoor. Does he want me to put it ?

Shri J. R. Kapoor : Yes, Sir, and I hope the Hon. Law Minister will please go over it and see what it means, otherwise there will be difficulty in enforcing what he wants to enforce.

Mr. Deputy-Speaker : Why at this stage. All persuasion has already been done.

The question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3 in the proposed amendment to clause 2, after part (1), insert:

“(1A) in sub-clause (3) for the words ‘the provisions’ the words ‘any or more of the provisions’ be substituted.”

The motion was negatived.

Mr. Deputy Speaker : The question is :

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1) insert:

“(1A) in sub-clause (3) insert at the end ‘in respect of any or more of the matters dealt with herein’.”

The motion was negatived.

Mr. Deputy Speaker : Now I take another topic—inclusion or exclusion of categories of people.

The question is:

In the amendment proposed by the Hon. Dr. B. R. Ambedkar, printed as No. 3, in part (1) (ii) of the proposed amendment to sub-clause (1) of clause 2, after “Sikh religion” add :

“or to any other religion or faith except Muslim Christian, Parsi or Jew religion.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (d) of sub-clause (1) of clause 2, at the end, add:

“subject to his rights and liabilities before his conversion.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

After part (d) of sub-clause (1) of clause 2, add:

“(e) to a Muslim or Christian converted from Budhism, Jainism, Sikhism or Hinduism in his life time.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

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

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 274, which also stands in the name of Mr. Naziruddin Ahmad is the same as the one just now negatived by the House. That need not be put.

Then, the question is:

For part (b) of sub-clause (1) of clause 2, substitute :

“(b) to any person who is a Jaina by religion.”

The motion was negatived.

Mr. Deputy Speaker : The question is :

In part (b) of sub-clause (1) of clause 2, for “Jaina or Sikh” substitute ; “or Jaina”.

The motion was negatived.

Mr. Deputy Speaker : Amendments Nos. 101 and 102 are only earlier amendments which are the same as the amendments which have been just now negatived by the House. I need not put them.

The question is :

In part (b) of sub-clause (1) of clause 2, omit “or Sikh”.

Mr. Deputy Speaker : The question is:

In Clause 2, omit “Sikh”, wherever it occurs.

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (c) (i) of sub-clause (1) after “illegitimate” insert: “who, if he has attained the age of eighteen years, is himself a Hindu and”

The motion was negatived.

Mr. Deputy Speaker : The question is:

In part (c) (ii) of sub-clause (1) of clause 2, after “belongs or belonged” insert “and who, if he has attained the age of eighteen years, is himself Hindu”.

The motion was negatived.

[1-00 P. M.]

Mr. Deputy Speaker : Amendment No. 277 is barred by a previous amendment and therefore need not be put.

Shri J. R. Kapoor : My next amendment deserves acceptance. It is an improvement in the language.

Dr. Ambedkar : I will improve my own language.

Pandit Thakur Das Bhargave : It is only a grammatical change. Instead of the present alone it seeks to include the past also.

Mr. Deputy Speaker : The wording in the clause relates to the present. There is a difference. It is not a formal amendment.

The question is :

In Part (c) (i) of sub-Clause (1) of clause 2, after “parents are” insert “or have been”.

The motion was negatived.

Mr. Deputy Speaker : Amendment No. 105 is covered by this and need not be put.

Then, the question is :

After part (c) (ii) of sub-clause (1) of clause 2, add:

“(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs ;”

The motion was negatived.

Mr. Deputy Speaker : The question : The question is :

After part (c) (ii) of sub-Clause (1) of clause 2, insert:

“(iii) to any orphan or abandoned child brought up by the state.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

After sub-clause (2) of clause 2 insert:

“(2A) This Code also applies to any woman professing any religion who has married a Hindu, buddhist, jain or Sikh.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

Omit sub-clause (2) of clause 2. The motion was negatived.

Mr. Deputy Speaker : The question is :

For sub-clause (2) of clause 2, substitute :

“(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu Law or by any custom or usage as part of that law in respect of any matters dealt with herein.”

The motion was negatived.

Mr. Deputy Speaker : The question is:

In sub-clause (2) of clause 2, after “Parsi” insert “Sikh”.