

to our Hon. Minister of Law that it is improper for us, being ignorant of the traditions, to deal with all these traditions in this manner. Secondly, it is not wise to destroy completely these traditions and specially when they do not go against any rule or Bill. I have heard that in some cases in some parts, these customs and traditions are being given their due place. But no amendments have come before us in regard to them.

An Hon. Member : Amendments regarding marriage have come.

Shri T. N. Singh : But amendments regarding other things have not come, perhaps they are about to come. I welcome them. But at the same time I would submit that it is not correct to make laws for them in a sweeping manner with a view to eradicate them. That is why I oppose this measure particularly. If you were to read this clause, it will be found that the words 'any other laws in force' have been added to the clause now framed i.e. any other law or Act which is inconsistent with it would also be repealed and would not be applicable. In that case, would it not be proper if you also said in regard to these traditions that the inconsistent things would not be applied and any custom or tradition going against any of its principles or basic aims would not be applicable. If so, it would have been understandable. But to say that no tradition would apply is not fair and I believe that it is essential to change or amend it carefully. I do agree that many of our traditions are inconsistent and are perhaps not according to the times. According to some of the current traditions, an aged man of 60 or 70 can also marry. But it is regretted that this is not incongruous with the Hindu Code. What I mean to say is that if you have to axe any tradition, axe such traditions.

Shri A. C. Shukla: Those regarding dowry.

Shri T. N. Singh: Yes, there are many others, like widow remarriage etc. You made scores of laws regarding them and did many things, but did we succeed through them ? That is why I say that every tradition should be thoroughly studied. I am opposed to removing all of them. I do not mean that none of our traditions is wrong.

Shri A. C. Shukla : May I ask a question ? How will you determine that a particular tradition is good or bad ? If 75 per cent, people of a community want a custom to be retained, should their view be accepted, and should the customary law, as stated by Shri Jangde, be reformed ? Everybody wants reform of the bad customs. Therefore, let us know how it should be determined.

Shri T. N. Singh : The question put by Shri Shukla is very simple. It is not you or I who reform the traditions. It is done by the whole society, the whole community, according to the dictates of the time and it can never be said that all traditions have remained unchanged. All of them have undergone changes. But I say that when we apply our individual judgment as against our collective wisdom, it becomes our duty to study them fully. That is all I have to say. I do not say that no customs should be changed, but we should change them with our collective wisdom. We have the right to do so in this manner, but we should not do it through legislation. This is what I want to say.

Shri A. C. Shukla: How ?

Shri T. N. Singh : Many of the traditions which you regard as bad get changed by the pressure of public opinion. Many others change according to the dictates of time. It is said that at one time when a child was bom in sparta, it was thrown away. If it could survive one day and one night, it was brought back and given a lease of life. This is correct. There was a special necessity for that tradition at that time. These traditions change with the times as the needs of society change.

Dr. Ambedkar: You are arguing a bad case.

Shri T. N. Singh: I do not understand this. When I believe that you are making a vain effort, you might think that I am supporting a bad case. The thing is that you do not have full knowledge of our traditions. Only after studying them completely you might change them and those traditions which are very good, whether they are sustained by this Code or not should

Shri A. C. Shukla: Are they recorded ?

Shri T. N. Singh : We live in this country and know them. It is, therefore, improper to axe these good traditions and I would like that either this clause should be removed altogether or it should be adjusted in the next clause. It should be considered after that, that would be proper. To pass it just now in this form is not proper.

***Ch. Ranbir Singh (Punjab):** (*English translation of the Hindi speech*) I have risen to support amendments No. 420 proposed by Pandit Thakur Das Bhargava and No. 288 of Shri Bhatt. Shri Bhatt by his amendement means that if some customs or usages clash with

the Hindu code Bill, then that clash should not be regarded in the light that the custom is abolished, but it should be allowed to continue for ten years and after that period it should be regarded as finished. Amendment No. 420 by Pandit Thakur Das Bhargava means that those customs which are in accordance with the Hindu Code Bill should be regarded as abolished ; and those customs which are left, their power or their legality should be retained. Whatever has been said by my learned friend Shri Pande, I agree to that and this thing is right and very much heartening. The real purpose of the Hindu Code Bill was considered to be that this Bill was being brought forward to introduce some reforms in the country to remove the prevailing social evils from the society and to bring about some changes in it. How many people would be affected by it has to be taken into consideration and as he said I regard the imposition of this Hindu Code Bill from the backdoor upon those people of this country who were free from it upto now, as an act of abuse of power.

Shri A. C. Shukla : Even if they do not want it they must have it.

Ch. Ranbir Singh : Shri Shukla has not understood the meaning of the word imposition used by me, or he has not heard it properly. If he says that the imposition which I have said is wrong then perhaps I would like to know from him whether he can quote any example in which any person from the Punjab, may he be a Hindu or a Sikh or a Muslim, has ever raised his voice that their customary law should be abolished and in place of that they should have the law of Manu, or of Yajnavalkya or of anybody else.

Shri A. C. Shukla : When they will become educated they would demand that.

Ch. Ranbir Singh: Perhaps Shri Shukla does not know how dynamic personalities have been born in our Punjab who have challenged the authorities of our country, although, I do not support them but this is an historical fact that during the recent years nobody had been able to defeat a Congress candidate in the Hindu majority areas, but in the Punjab there was a constituency in Haryana, which is a Hindu majority area, in which Ch. Chottu Ram had defeated a Congress candidate.

Dr. Ambedkar: Ch. Chottu Ram was a great friend of Hindus.

Ch. Ranbir Singh : In case the Hon. Dr. Ambedkar has got any document or any other proof about it, I am ready to accept that. But

as far as his objective is concerned I am not opposed to that. I am a supporter of monogamy and I want that in some special circumstances arrangement for divorce should also be made so that when some difficulty is felt on both sides, by the man as well as by the woman in living together, a way must be found out to save them from that difficulty. But along with it I cannot help saying that this attempt is nothing but an act of abuse of power, because we should have applied this Hindu Code Bill to those only who wanted to be governed by it.

Since this question of Hindu Code Bill has come before this House, it has taken several months and many a day has been spent upon it, I tried hard to snatch some minutes so that I might express my views about it, but unfortunately I could not get a chance. Unfortunately, when Sardar Man spoke about it, instead of coming to the right thing he got himself entangled in the labyrinth of the Sikh religion, perhaps he might have thought that in this way his point would be more forceful or there might have been some other reason. However, I think that this question is not related so Sikhism alone, this is a question pertaining to the customary laws of the whole of the Punjab. I want to bring to the notice of the Hon. Dr. Ambedkar that even in such a time when such Brahmanic rules and regulations with regard to the living customs of the country and the society were being enforced rigidly, *viz.*, one could not go in a particular direction on Mondays or on Tuesdays or on Saturdays, the martial race of the Jats in the Punjab, to which I and the Hon. Sardar Baldev Singh belong, did not yield to the Brahmanic rules and it has not done so even now. I want to submit that really in our society there is no likelihood of any appreciable opposition to the two provisions relating to monogamy and divorce, and I am not personally against them, but I am opposed to the method and manner which you are resorting to. And the manner or the backdoor method through which it has developed is not a proper one. This is not because I regard myself a Non-Hindu but I do feel that we have never been governed by the Hindu code and it has never been enforced with regard to us. I doubt your intentions that you can govern by the backdoor policy those whom you could not enslave mentally. I disagree with you to a great extent with regard to the rules and regulations which you are enacting in respect of marriage and divorce without caring for the prevailing customs. I want to state with respect to this that many reformers of society have done a great many reforms in the Hindu Society with regard to the widow's

plight but I want to point out that a young widow has remained an unknown thing to our society from times immemorial. Our society does not know the name of a young widow, because it is a custom in our community that when the husband of a woman dies, then after a year of his death the brothers and parents of the widow and the relations of her late husband meet together and in spite of the shyness, as is common everywhere in our Hindu society, and against her formal wish, that she would herself bear the distress that has befallen her, and in spite of her refusal, she is told that this is not possible. It may be said that her ideal is good, but how many people are there who can follow such a high ideal? The people of our society doubt whether such a lofty ideal which you are going to establish in our society would not create any evil in our society. Therefore, you should recognise our simple custom of remarriage and not invalidate it. So I wanted to support the proposition laid down by Shri Bhatt. Now I mention the reasons for that.

On the one hand where your rules and regulations wanted to reduce the troubles of our womenfolk, and they have reduced them to a great extent, on the other hand their troubles have been increased manifold. And that is because you have given them a sort of right to marry wherever they want. In the ordinary way, if no extraordinary trouble arises it would easily become a custom that they could remarry, but why do you lay down this restriction? Generally people are not bigamous of their own will but they are forced by circumstances. If a brother dies, his brother has to concede to the custom of bigamy against his wishes.

Shrimati Dixit: I want to ask you a question. There is a woman, who has got four or six children, there is her husband's brother's wife, she also has got four or six children. If they are made to live together would not the co-wifely feeling create trouble between them? Is it not unjustifiable on principle to force a woman to marry another man against her wishes?

Sardar Hukam Singh (Punjab): By the will of god.

Ch. Ranbir Singh : If you mean remarriage by that, I would say no : remarriage is possible only when it is regularly sanctioned by society, but there are many women who cannot express their desire. After thirteen or fourteen days of his wife's death a man may express it, but the women cannot do so due to the peculiar set-up of our society such a thing is impossible, and ample time is required to change that.

But if she meant this that if there is a brother, who has got two or three children and a wife and he has a brother who is about to die, and he also has got two or three children and his wife, that they are made to live together it would create difficulties and trouble would arise. If she wants to know about that, I am coming to that point also. I confess it and everybody in our society would confess it that nobody resorts to bigamy willingly and that the woman is also helpless, because she loves her children and she cannot leave the two or three orphans, for where could they find shelter. She cannot say that she wants to remarry and the other members of the household also cannot leave the children, then the question arises whether she should take her children with her. But this is a custom in our society and I think, you may enact any law but you cannot change it. This is not a matter of joke. They themselves could change it but you cannot change it today.

There is another custom in our society. It is their belief that even the most foolish man belonging to a particular family would not allow his children to go to another family, and if a man tries to do so very severe punishment has been prescribed for him in our community. Even if you say that our community is backward and it is very difficult to improve it, the result of such an action among us is still murder. If you want that the number of murders and assassinations should increase in our society, the Punjab is already notorious for murders and assassinations, for many people are hanged there for such murders etc.—if you want to increase their number you are at liberty to impose any rules and regulations on them immediately. But if you want to decrease the number of murders and assassinations and the sentences of death, I would request you to accept the amendment of Shri Bhatt or of Shri Bhargava.

So I was saying that either a woman, if she loves her children, will be forced to live as a widow for the rest of her life, as has never been done in her community before, or, if she does not love her children, she might take them stealthily to some other place at night and if she meets some daring person who says that he would see how others could harm him the result would be that either she would become a widow again or her husband would be hanged. But, in any case, she would not remain a fortunate wife, though this is a big and a terrifying thing, but it is a fact.

Then there is the question of *sagotra* marriage. How many men and women live in the cities? I want to state my own reactions

about this Hindu Code Bill. In this house the majority of members come from the urban areas. Those who were born and brought up in the cities confine their thoughts to the rules and regulations and manners and customs of the cities. They think there is a vast difference between town life and village life, they have got no experience about it. I give a simple example. For instance, take the case of a city. If a woman there does not want to marry nobody would object. But if in a village a girl attains about the sixteen of age, not only does distress befall her parent but that girl is persecuted too. Everybody comes to the father and says, "why do you not arrange for the marriage of your girl?" The girl might be bitterly opposed to marriage but she cannot avoid marriage. She is forced to do so; this theory might be good or bad but this is a fact. From this very example you can differentiate between the mode of life in a town and that of a village and see how much difference is there between them; and still you want to enact a common law for both. My friend Shir Jangde spoke so forcefully. He spoke for others but I suspect Shri Jangde has become a townsman or has gone to their side. He is coming to appreciate the urban way of life. He wants to tell his own tale and not that of the people of his own place. So I was submitting that when there is so much difference between the two modes of life, there is such a vast difference between their social conditions, and you want to enact a law which will be applicable to all irrespective of their customs and usages, it would be a great injustice to them.

There is another point I would like to touch upon in this connection and that is with regard to *sagotra* marriage. Unlike the customs obtaining among us in Punjab, here we find that most of the girls are usually married locally. Taking the case of Delhi itself, it will be seen that girls from one part of the city are married in the other part of the city. Even in the small towns having a population of say ten thousand they are married likewise. Under the circumstances, they are not conversant with the customs regarding marriage prevailing among us. In keeping with the custom obtaining among us, I cannot get my son married among my own subcaste which is spread over as many as 24 villages situated within a radius of no less than ten miles. It is not that he cannot be married in only those 24 villages, even the villages numbering about 30 to 40 where the families of his mother's subcaste are settled are ruled out for the purpose of such matrimony. Things do not end here. I cannot get my son married to

a girl from any of the thirty to forty villages, where people of my mother's subcaste live. That is to say, I cannot find a bride for my son from amongst a hundred neighbouring villages or so.

Shri A. C. Shukla : Is it a healthy practice or otherwise ?

Ch. Ranbir Singh : I never laid any claim to this effect. It is none of my intention to annoy him in the way the Hon. Doctor did. Unlike him I cannot dare utter anything unpleasant things. In contrast with the big personality of the Hon. Dr. Ambedkar I am but an humble Member.

Shri Radhelal Vyas (Madhya Bharat): But you are also Jat.

Ch. Ranbir Singh : Of course, I am but not a Sikh Jat like Sardar Bhopinder Singh Man. I do not want to enter into any controversy—and thereby cause offence to anyone—as to whether our custom is better or other's or whether or not this measure is of any use. What I want is simply to apprise you of our customs which; for instance, prevent me from getting my son married in about as many as one hundred to one hundred twenty villages. How under such a state of affairs, can those women residing in small towns or even in big cities, be supposed to have any real estimate of the extent of hardships and difficulties which we are subjected to while facing such issues, because for them marriage is no more than a mere routine affair that could be performed from one *mohalla* to the other ?

Pandit Thakur Das Bhargava : There is no difference between Hindu Law and your law in so far as this matter is concerned.

Ch. Ranbir Singh : There may not be any difference in the laws but the developments do vary. According to our customs we cannot establish matrimonial connections among some certain *gotras*. None can dare go against such a custom. Even the most backward person— under the present social structure such a man is bound to be treated as such, although in future he may be called progressive—cannot possibly take such a step. In fact none has got so much courage, so to say. But what you are doing today is, if I may say so, simply enabling such a man, by law, to take such a step.

Shri A. C. Shukla : What is it that the hon. Member wants ?

Ch. Ranbir Singh : I am not going to say what I want. I would, on the other hand, only want to apprise the House of the various customs prevailing. That is why I am pleading for Shri Bhatt's amendment to be accepted. Let developments be closely watched during the next ten years, the truth will express itself in the right manner. If our course of action would be correct you would, I am sure, change over to our side or, otherwise, we would do the same thing.

So I was referring to the fact that even in the present days *sagotra* marriages are not being performed. But there is no denying the fact that rules and regulations have great force on their back. Supposing a man with the help of this law seeks to get married in the same village or among the same *gotra*, what would be the possible consequences ? He is likely to meet the same fate as I have described earlier. It is not that I want to exaggerate things in any way, but, all the same, let me point out what I consider to be a serious drawback in our present day society. Supposing any member of my family gets married in such a manner, nobody would care to ascertain my view in the matter. If my brother commits any wrong of this type, it may be that I may also be murdered simply because I happen to be his brother, regardless of the fact whether my views are in his favour or otherwise. None is going to ask me to explain my view point. Such is the sorry state of affairs in our community. Indeed how strange it looks that they judge the doings of one brother from those of the others ! Here, in your society, three brothers can hold three different views— one can be a Communist, the second a Socialist and the third Congressite. To be more precise, if a man here is a member of the Bharatiya Jan Sangh, it is open to his brother to join any other party. But things at our end are quite the reverse. If any one member of a certain family there joins Congress, the entire family would be automatically deemed to be Congress site regardless of the fact whether it be so or not. Such is the condition of our community. Now, it is for you to call it whatever you like— progress or otherwise. I, for one, under such circumstances, stand for monogamy in our society. In a country like ours; especially in a community which I belong to namely Jats, monogamy is particularly essential, for among us the number of boys is more than girls. A man have two wives only by encroaching upon the share of any one of his fellow beings. Under the practice of monogamy, comparatively larger number of men would be provided with wives which is otherwise not possible. It is just possible there may be such regions in this country where the number of women is more than men. (*English translation concluded*).

Sardar B. S. Man (Punjab): In Madras they have.

Ch. Ranbir Singh: But the difficulty is that a Hindu Jat of our side is not so broad-minded as to go as far as Madras ; a Sikh Jat may go. I for one consider monogamy to be a step in the right direction ; but the difficulty is that our society has not yet so advanced, or shall

I say, degenerated, so as to agree to the practice of *sagotra* marriage. Let it be postponed for ten years, after that this issue may be taken afresh for consideration, if by that time the society succeeds in reaching that height of advancement, which would clear the field for such steps, we would accept it; otherwise it would keep on pending. We do not, of course, approve of the practice of what we call forced bigamy, but, all the same, the practice continues in our society, though it is not so common. Give us ten years' time during which we may make efforts to do away with such a practice.

In the end once again I take this opportunity to submit to the Hon. Dr. Ambedkar that although, I am a whole-hearted supporter of this measure. I would like him to accept either Shri Bhatt's amendment or amendment No. 420 moved by Shri Bhargava.

Shri Sivan Pillay (Travancore-Cochin): Sir, let the question be now put.

Captain A. P. Singh (Vindhya Pradesh): No, Sir. At least those who have moved amendment may be given an opportunity to speak.

Sardar B. S. Man : Yes, Sir. This is a very important point.

Mr. Deputy Speaker : I shall call Mr. Jhunjhunwala and after him Shri Bhatt. They have tabled amendments.

Shri Syamnandan Sahaya: Sir, I have also tabled amendments.

Mr. Deputy Speaker: I shall call them in this order, and then I shall consider any other name.

***Shri Jhunjhunwala** (Bihar): (*English translation of the Hindi speech*). All my three amendments are in consonance with the Constitution.

12 NOON My first amendment provides that if this Code contains anything against any religion, no clause of this Bill shall override the provisions of the existing law; the second amendment provides that if this Code contains anything against morality, the Bill shall not override the provisions of any existing law, or any custom or usage in force; and the third provides that if this Code contains anything against the culture of any section of the people, the Bill shall not override the existing law.

Sir, when I had moved the third amendment, you had asked as to what would be the form and definition of the word 'culture'. Yesterday, in this connection, I had wrongly quoted Article 129 of

the Constitution empowering every section of people to have a culture of its own and to conserve the same. In fact it is Article 29 and not Article 129—which reads :—

“29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”

That is why I have put in the word ‘culture’ here. The Hindu code, in keeping with the Constitution, cannot contain anything whatsoever that would deprive any section of people, or any community of its right to preserve its own religion or culture. I shall deal with my amendments later on. It will be recalled here that you had given a ruling to the effect that one should take the opportunity to deal with any other amendment or clause while speaking on his own amendment, or otherwise he would not be allowed to do so afterwards. It is because of this that I purpose to take this clause first and the amendments later on. Moreover, that would be more convenient to me.

Sir, when the Hindu Code Bill, which is now sought to be passed under another title, namely ‘Marriage and Divorce Bill’, was placed before the House, it was said to have contained two main things. It is argued in this behalf that this Hindu Code Bill, or say, Marriage and Divorce Amendment Bill, is sought to be passed in view of the two main objectives which it aims at. In the first place, the measure is stated to be progressive ; and secondly, it is described as a legislation that would go a long way to provide women with their due rights hitherto denied to them. Men have so far been very unjust to women and it is with a view to eradicating this evil that this legislation is sought to be enacted. Now, let us see whether or not this measure is progressive. The Hon. Minister of Law did not give any definition of the word ‘progressive’ that might distinguish between things which are progressive and those which are not. It was stated from this side that the Hindu religion was one of a very long standing and was based on true scientific principles which alone are responsible for its survival so far despite so many atrocities committed on it. Replying to this suggestion the Hon. Law Minister was pleased to state that it was Lord Buddha who had disclosed the true path of the religion. The Buddha, Dr. Ambedkar said, could not tolerate to see women being subjected to men’s continuous oppression and having no rights whatsoever. It made Buddha’s heart bleed to see men having more rights than women and committing all sorts of atrocities on them.

It was this treatment of discrimination against one sex, the Hon. Law Minister went on to say, that led Lord Buddha to preach equality among men and women. By quoting the Hon. Doctor here I simply want to impress that the Bill in question is stated to have been brought forward in accordance with the Buddha's teachings. Lord Buddha, a great figure as he was, was undoubtedly religious-minded. Let us, therefore, closely study as to what was the real object which he aimed at. Here I am reminded Sir, of a couplet of Sant Jnaneshwar, a renowned Maharashtrian poet, the actual words of which I do not quite recollect at the moment but it means something like this : A frog accompanied by a bee entered a tank where there were lotus flowers blooming on the water. The bee sat on the lotus and sucked its honey; it carried away with it honey and fine smell. But the frog which had accompanied the bee to the tank could only bring some mud and dirt.

SARDAR HUKAM SINGH *in the Chair*

Sir, the Buddha preached that the more we are able to subdue our evil desires, the better it is, for it would only help us to serve the society and then humanity as a whole in a better way. This was the highlight of his teachings. But, Sir, it is something extremely astonishing and painful too, that our Law Minister could not find any such suggestion in his teachings. What he could make out was that since men had had right of polygamy, women too must have the right to divorce in order that the effects of the former could be neutralised. I would request you sir, as also the hon. Members here, just to see what type of equality is sought to be given by this Bill.

Dr. Ambedkar : Is this all relevant on clause 4 ? Let us have some regard for relevancy. We could not altogether abandon the rule of relevancy.

Pandit M. B. Bhargava : Relevancy is not the sole monopoly of the Law Minister.

Mr. Chairman : I would request hon. Members to leave this question to me. The Hon. Minister has asked me to decide it.

Pandit M. B. Bhargava : But he himself pronounced the judgement—he did not refer it to you.

Dr. Ambedkar : Relevancy ought to be also your monopoly—not only mine.

Pandit M. B. Bhargava : It is yours

Mr. Chairman: There should not be any cross-questions and answers. I would again request Hon. Members to have greater restraint on themselves. I would ask the Hon. member who is speaking that he should be more relevant in his speech.

Shri Jhunjhunwala: I was quite relevant in pointing out on to where the equality exists and where it is that we should give equal right to the women.

My friend Shri Thakur Das Bhargava observed

Mr. Chairman : I must tell him that that is not the real issue at the moment, that is whether equality should exist or not. He may refer to customs and other things, but equality is not the direct issue at this moment. We should have regard to that.

Shri Jhunjhunwala: May I explain to you sir, as to how these things relate to the real issue. I had in the beginning submitted that the Hon. Minister of Law had advocated two main points in support of this measure. Firstly, he described this Bill as a progressive measure, and secondly, he stated that this Bill sought to put women, who had not got equal rights, on equal footing with men. And now this clause 4 provides that the provisions of the Bill shall override all other things. As I said before, I shall first deal with this clause. In my opinion the measure itself is of no use when it does not go to fulfil either of the two things that are advocated in its support. Hence I am just trying to convince the Law Minister that the measure he has put before the House is absurd altogether and does not conform with the two main points which he has advocated. As a matter of fact, the measure ought not to have come at all. That is the point which I wanted the House to take note of. I may, with your permission Sir, make a few more observations in this connection and they would clear the whole thing, for otherwise the argument itself would become meaningless. I would, therefore, like you to appreciate the fact that this measure is neither progressive nor does it seek to provide women with their due rights as was advocated when the Bill was brought forward. If the clause relating to property had been taken. I could understand it because so far as property is concerned, our women have not got equal rights, they are suffering great hardships on this account and are subjected to innumerable atrocities. I am sorry Shrimati Durgabai is not here at the moment; she was kind enough to narrate some heart-rending tales with regard to women in Madras thereby causing much pain to all of us here. The question will be dealt with at length

while taking up the property clause. If in reality the Law Minister was very serious about our women's betterment, he should have taken up property clause first, because we cannot possibly help women take their proper place in society unless their economic condition is well improved and they are made absolutely free in that sphere. Hence, I cannot understand why that clause is not taken first. It is none of my intention to criticise his motives, but, all the same, I cannot but say that his real object is apparently different from what he is advocating. By bringing forward this measure he seems to be intending to exterminate the Hindu religion, Hindu society and the Hindu customs and usage, thereby bringing moral degradation of the Hindu society. His aim seems to be no other than this. By taking the property clause first and thereby seeing that women's economic conditions are improved, we could have given them some solid relief. Many an Hon. Members pleaded for this but there was our Law Minister constantly nodding his head in disapproval. He perhaps does not like us to take the credit of doing something for our women which would help them and redress their grievances.

I was just referring to my friend Shri Bhargava's view that divorce was a thing which he did not like and as a matter of fact very few persons have supported it. The reason is that it is not a good thing. I may just give you an idea as to what would happen if divorce is enforced. Daily the youths of our country would read in the papers that so many cases of divorce took place that day and that such and such person divorced his or her partner. The newspaper published in my friend Shri Brij Kishore's village in Bihar and also that which Shri Syamnandan Sahaya is going to bring out, would report such cases and they would read them. Out of all persons, Shri Brij Kishore seems to have seen greatest advantages in divorce. He would read these reports very enthusiastically. I am rather sorry that he is not here at this time otherwise he could know what madness he was indulging in while talking like that.

Sir, I was submitting what my friend Pandit Thakur Das Bhargava said that divorce was not a good thing. But he stated the reasons why he favoured the idea. He said that in the clause relating to divorce a provision was being made to make it optional. According to him it was a very important provision. He said that it was only an enabling clause. But I would submit that a number of enabling clauses have been passed here. The Hon. Minister of Industry and the Hon. Minister

of Commerce have often taken refuge under this 'enabling clause'. They have said the same thing about Coca-Cola. They say if it is being manufactured, let it be ; it is only an enabling clause. Similarly there is this enabling clause related to divorce. I would like to ask one thing from Pandit Thakur Das Bhargava. Suppose there are two sons of a father and one of them has married three wives. Now the other fellow goes and tell his father that if his brother could marry three and spend so much, then what should he do.

Dr. Ambedkar: He may marry four.

Shri Jhunjunwala : The father replied that he could marry five. So, according to Pandit Thakur Das's theory, if a son marries three wives, the other should marry five. Why after all he should lag behind ? This is the right he wants to give. But our friend Shri Syamnandan Sahaya is a staunch *baniya*. What would he say ? He would say that if he has married three wives, he should immediately be turned out.

Mr. Chairman : I would request the hon. Member to discuss the subject of marriages when the question of monogamy is taken up. We are now discussing customs and rules and it would be better if he confines himself on matters relating to this subject only.

Pandit Thakur Das Bhargava : He means to suggest that one son would divorce three wives and the other five.

Shri Jhunjunwala : Sir, I would abide by your ruling and strictly follow it, but as I submitted in the beginning

Mr. Chairman: He can certainly speak on this clause.

Shri Jhunjunwala: I was speaking on the marriage clause.

Mr. Chairman : Not on the marriage clause. Clause 4 is under discussion.

Sardar B. S. Man : On a point of information. While discussing the present clause and while moving certain amendments to the effect that from its effect certain customs may be excluded, we have to place our case by showing that those customs should be excluded for valid reasons. In that case, I suppose we are entitled to refer to the customs that are at variance with the Hindu Code and thus base our case that customs which have a long history, which have been recognised as such and which are not repugnant to public policy and thus which have the force of law should be permitted. In that respect, I beg to say that it is perfectly within the rights of Members to refer to the customs even in detail.

Mr. Chairman: It has already been laid down that as far as particular customs are concerned, they might be taken up when the particular clauses are under discussion. So far as the relevancy about this general clause is concerned, you can discuss in a general way and say that such and such a custom is very old and it has been uniformly observed. You can say that much about the status of a custom, but if we were to take up all the customs and discuss them there will be no end to. There are the relevant clauses and when they are taken up each particular custom can be discussed. That would be the better place. I do not bar this discussion. I am only requesting the Hon. Member and suggesting to him that that would be the more proper place. Here, he can discuss in a general way.

Shri Jhunjunwala : Sir, I will speak according to your ruling. But I would like to submit that I could not get an opportunity to speak on clause 2, although the Hon. Speaker ruled that, as in the case of clause 2. Members could speak practically on all matters while discussing clause 4. Only the clause relating to property, could not be discussed. I am pointing out to the House the advantages and disadvantages of the provisions relating to divorce and marriage. I think I was never irrelevant. Anyway, I would now abide by your ruling, and briefly submit my view point. I now come to my amendments.

Babu Ramnarayan Singh : Very good.

Dr. Ambedkar: Take your seat now.

Shri Jhunjunwala: I will take my seat, you kindly withdraw this Code and relieve the Hindu Community of it.

Dr. Ambedkar: Please sit down.

Shri Jhunjunwala: You leave and I will sit down.

Dr. Ambedkar: Take your seat, or I will go.

Shri Jhunjunwala: You go, and I will also sit.

Mr. Chairman: I would ask the Hon. Member to continue his speech.

Shri Jhunjunwala : I am coming to my speech but the Law Minister, who is a responsible person, is indulging in unnecessary interruptions. He wants that this thing should be talked over and Government's money be spent somehow. He is not so anxious to grant equal rights to women but he is more keen to see that Government's money is spent somehow so that people outside might know that the Law Minister is not idle.

Mr. Chairman : May I request the Hon. Member that he should proceed with his speech instead of answering these questions.

Shri Jhunjunwala : Sir, I am prepared to abide by your orders. But when any Hon. Member interrupts, it becomes difficult to proceed further and it also takes more time to come to the speech proper.

Dr. Ambedkar: Do not get nervous, they are your comrades.

Shri Jhunjunwala : Comrades also desert sometimes. I have had a number of comrades like you. You have been professing yourself to be a champion of women's cause, but ultimately deserted them.

Sir, I am continuing with my speech but the Hon. Minister interrupts.

Sardar B. S. Man : Will it not be discourteous to the Hon. Law Minister to ignore the interruptions and not to reply to it ?

Shri Jhunjunwala : Then there is another point which I would like to submit. Pandit Thakur Das Bhargava said that if anything is suggested that might lead to some harm and if anybody is doing a wrong thing, then how far is it proper to ask others also to do the same thing ? How far is it wise to ask women to do wrong to men if the latter are behaving in that manner ? That is what I am going to point out.

Then we have to see whether this thing is progressive or not. Our Hon. Minister of Home Affairs, Shri Rajaji is not here at present. He made some remark while referring the Press Bill to Select Committee. He said that an article or a caricature about him (I do not exactly remember what it was) appeared in some paper. When he saw it, he found it most revolting and at the same time very obscene. He did not know why it was published and felt it very much. But he said when he saw the news papers of the present day, he felt there was nothing special in that paper which should have offended him (*Interruptions*). My hon. Friends are trying to interrupt me.

Mr. Chairman : If you address the Chair perhaps you will not feel that inconvenience.

Shri Jhunjunwala : I am accustomed to look all round while speaking.

So, he said that it was quite insignificant. As compared to the articles and caricatures that appear in the present day press, that thing did not seem to be obscene at all. He said he felt it unnecessarily. The newspapers force us to see and read those things that we do not like to see, and young men and women of the country read them. God knows what influence those things might be leaving on our youths.

Now, I wanted to ask at that time whether these articles etc. that appear in our press are progressive. These are far more obscene than that which you thought to be quite vulgar. Then, are they progressive and if they are progressive do they prove beneficial for us ? So, I wanted to point out that our Law Minister who is the Manu of *Kaliyug*

Shri Syamnandan Sahaya : Not the Manu of *Kaliyug* but *Kaliyugi* Manu.

Shri Jhunjhunwala : We are living in *Kaliyug* hence I called him the Manu of *Kaliyug*. Our Hon. Minister Shri Gadgil who considers himself to be an outcast Brahmin and thinks he is a *Pandit* has given him this title. All that I mean to say is that he is the Manu of this age. I wanted to know whether the purpose of this progressive measure is to uplift our society or to degrade and demoralize it. I could have understood the whole thing if he had convinced me before I had moved my amendments that the measure was progressive in such and such manner. He only said that it was progressive and that women should be given equal rights. He has denied those rights to them that they needed most and which could have benefited them very much. The right which he is giving to them is that of divorce. So, I was trying to point out whether this is really progressive. I say this can never be progressive. If a person does something wrong, it is not wise that I should also repeat the same thing for that reason. On the other hand, such legislation should be made whereby the person doing a wrong thing might be forbidden to do it in future. It should not be that the other person may also be asked to follow him.

That was about this clause. Now, I would move my amendments and fully express my views on them. I have already read them out and so I would not read them again. This will take more time.

Shri Syamnandan Sahaya : How would we understand and vote upon them.

Mr. Chairman : Has he already read them ?

Shri Jhunjhunwala : Yes Sir, I have read them.

Mr. Chairman : Then there is no necessity of reading them again.

Shri Syamnandan Sahaya : We have to vote upon them. You must read them.

Shri Jhunjhunwala : My first amendment is that if anything in the Code is against the Hindu, Sikh, Jain or Buddhist religions or

against Marumakkattayam and Aliyasanthanam laws, then it shall not apply to them.

Dr. Ambedkar: It shall apply only to the *marwaris*.

Shri Jhunjhunwala : Had it not applied to the *marwaris*, even then I would not have sat. This code is dangerously harmful to the society and the country.

Mr. Chairman: The Hon. Member should continue.

Shri Jhunjhunwala : The Hon. Minister is interrupting and casting aspersions. Our Constitution provides for equal rights. Why do you not allow me to reply to his remarks ?

Mr. Chairman : I am also asking him not to interrupt, the Hon. Member may go on.

Shri Jhunjhunwala : You turn towards him and then say, so that he may hear.

Mr. Chairman : I have acquired this habit from the Hon. Member. I would ask the Hon. Minister not to interrupt.

Shri Jhunjhunwala : Now in this connection, I would like to read before the House Article 25 of the Constitution. I would request the Hon. Members to listen patiently:

“25. (1) 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 practice and propagate religion.”

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;”

Babu Ramnarayan Singh : Kindly translate it into Hindi.

Shri Jhunjhunwala : You engage a teacher for that. Then there is :

“(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.”

After that there is explanation which I need not read. So I submit to the Chair and the Hon. Members of this House that the purpose of my amendments is that when you make an effort to introduce reforms, you have no right to touch our *Dharmshastras*. But you can

bring in any measure if it does not conflict with our *shastras* and our religion. My amendment relates to the following :

“any text, rule, or interpretation of Hindu law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respects any of the matters dealt with in this Code.”

“Any other law in force immediately before the commencement of this Code shall cease to have effect in so far as it is inconsistent with the provisions of this Code.”

I want to submit that I have no objection to this legislation. It is alright but if there is anything which is against any religion, Hindu, Sikh or Jain then it would not apply to it.

Shir Naziruddin Ahmad : And Muslims ?

Shri Jhunjunwala : Muslims do not come in the purview of this Bill. Then, in the next amendment, there is morality in place of religion. You cannot provide for anything in the law which has its effect on the morality of the people and which leads to their moral degeneration. This is what I have to say. This amendment should be added. We have been given this right under the Constitution. If this amendment is not accepted, I would think that our Government is slandering and vilifying our religion. They should not do it.

My third amendment is based on Article 29, wherein the following has been said about culture:

“29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”

My submission is that if this code affects or comes in conflict with our culture or the culture of Hindus, Sikhs, Jains or the culture of any section of the Hindus, then again it shall not be applicable under those circumstances.

[Mr. Deputy Speaker *in the Chair*]

Therefore, while moving these three amendments before the House,. I would urge the Hon. Members to accept my amendments first and then pass the clause. In the first instance I would ask them, not to pass the clause at all but if they pass it my amendments should also be accepted along with it. I would not take any more time now and finish.

(English translation concluded).