

been informed much earlier that a matter of this importance would come up today. I do not think that it is fair to the House that the matter should be considered at such a short notice.

SHRI P. SUNDARAYYA : The Delimitation Commission Bill can be taken up on Monday, and the Cantonments Bill and the Hindu Marriage and Divorce Bill can be taken up today.

MR. DEPUTY CHAIRMAN : I have no objection. We can start the consideration stage of the Delimitation Commission Bill today, and it may go on to Monday, and hon. Members can send in amendments till this afternoon. The amendments can be taken up on Monday.

SHRI B. C. GHOSE : How can the consideration stage be started ?

MR. DEPUTY CHAIRMAN : We will take up some other Bill now.

SHRI B. C. GHOSE : After the discussion on the Hindu Marriage and Divorce Bill is finished, the hon. Minister may move for consideration of the Delimitation Commission Bill.

MR. DEPUTY CHAIRMAN : Very well. The hon. Minister may move the Hindu Marriage and Divorce Bill.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : What About the Cantonments Bill ?

MR. DEPUTY CHAIRMAN : It is for the Government to decide which Bill to take up.

THE HINDU MARRIAGE AND DIVORCE BILL, 1952

THE MINISTER FOR LAW (SHRI C. C. BISWAS) : I will move the Hindu Marriage and Divorce Bill. Sir, I move :

That the Bill to amend and codify the law relating to marriage and divorce among Hindus be circulated for the purpose of eli-

citing opinion thereon by the 14th February 1953.

As a matter of fact I do not propose to take up much time in making my motion. This is a motion for circulation of the Bill. The only amendments I find are regarding the date by which the opinions will have to be submitted. I can say at once, to prevent unnecessary discussion and waste of time—we are very much pressed for time here—that I shall accept the later date suggested. Two dates have been suggested—the middle of February and the end of February. Well, I shall accept the end of February. The next session of Parliament will meet about the middle of February. Amendment No. 3, by Shri B. B. Sharma suggests that for 14th February, 28th February be substituted

SHRI V. S. SARWATE (Madhya Bharat) : I have submitted earlier an amendment suggesting the 1st of March.

SHRI C. C. BISWAS : Either will do. There is practically no difference between the 28th February and the 1st March. I accept the amendment suggesting the 1st of March.

MR. DEPUTY CHAIRMAN : That is amendment No. 2, by Mr. Sarwate. That is accepted.

SHRI C. C. BISWAS : All that is necessary for me to state now—I shall be very brief—is that this is only the first instalment of the Hindu Code Bill to which reference was made by the President in his opening Address to both Houses of Parliament.

I need not go into the history of the Hindu Code Bill. I presume the hon. Members are aware of the various stages through which the Hindu Code Bill had passed without however any definite result having been achieved. The Provisional Parliament took up consideration of the Bill as reported by the Select Committee. Then, in view of very considerable controversy being raised, Government themselves agreed to move certain amendments. Well, Sir, the discussion took place, continued after that, but then did not proceed beyond three

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or four clauses, and the Bill lapsed. Sir, when the question of reviving the Bill arose, I had to consider all the materials which were already there. The discussions which had taken place in the Constituent Assembly and the discussions which had taken place at the meetings of the Congress Party, all these were taken into consideration and I felt, Sir, that in view of these, it would be possible to present to the House a Bill in a much simpler form, so that it might have a smoother passage, without any way affecting the important features of the original Bill.

In the meantime, Sir, as hon. Members will remember, I introduced the Special Marriage Bill in the month of July last, I believe, and the hon. Members will have seen that the scope of that Special Marriage Bill had been made very wide. Marriages, not between members of any particular religious community but between any two citizens of India, subject to certain considerations, were provided for in this legislation. In the draft Hindu Code Bill, in the Chapter dealing with marriage and divorce, provision had been made not only for what were described as sacramental marriages, meaning orthodox marriages according to orthodox Hindu law, but also for civil marriages. The idea then was that as it was open to Hindus to marry in the civil form, the Code should include provisions for all forms and kinds of marriage which Hindus might contract. Therefore, special provisions were inserted regarding *dharmik* marriages as they were described in the Bill and also for civil marriages. Now, in view of the fact that the Special Marriage Bill has been introduced, all reference to marriage in that form has been deleted from the present Bill. This Bill deals exclusively with Hindu marriages—marriages between Hindus. That is one important change, Sir, which the hon. Members will take notice of.

Then, Sir, another feature of this Bill is that it refers also to marriages which may be contracted by Hindus outside India. That has been added for the

first time in this Bill. If you look at clause I, you will find it says :

"It extends to the whole of India except the State of Jammu and Kashmir, and applies also to Hindus domiciled in India who are outside India."

That is a new provision.

Then, I might refer only to some of the salient features of this proposed legislation. So far as the second clause is concerned, it lays down the persons to whom the Act will apply—Hindus by religion, Hindus by birth. Not that a person must be both, a Hindu by religion and a Hindu by birth.

Then, Sir, one important feature of this Bill is that full recognition has been given to customs and usages where they depart from the orthodox law. There had been a good deal of controversy in the Provisional Parliament over this issue. As a matter of fact, many things which according to the *shastras* are not strictly valid are still actually in vogue in different parts of the country. Take for instance the question of marriage between cousins. If you apply the test laid down in the *shastras* regarding prohibited degrees or *sapinda* relationship, such marriages will not be valid. But it will not do to invalidate marriages which have been actually in vogue for a long series of years in certain parts of the country—marriages between uncle and niece, marriages with maternal aunts and sisters' daughters and so on. These things are there recognised as perfectly valid marriages in South India. In the definition clause we have provided that the expressions "custom" and "usage" signify any rule which having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family.

Then, Sir, another change that has been made is with regard to the definition of "district court". A point was raised in the previous discussions in this connection. As we are going to allow divorce, applications for divorce should not be made very difficult from a practical point of view. If a person from the rural areas wants to apply for

divorce, he need not go all the way to a High Court and follow the procedure there. That will entail unnecessary trouble and hardship. What we have therefore suggested is that the expression "district court" will mean the principal civil court of original jurisdiction, and include the High Court in the exercise of its ordinary original civil jurisdiction and any subordinate civil court which may be specified by the Central Government, by notification in the Official Gazette, as having jurisdiction in such matters.

So, it will be open to the parties concerned to go to the nearest civil court and seek relief there.

Then, Sir, we come to two very important definitions,—the definitions of "*sapinda* relationship" and "degrees of prohibited relationship" for marriage. As regards both, we have tried to accept the narrowest limits of relationship which are recognised. On either of these points, there is no unanimity according to the authorities. "*Sapinda*" relationship according to some sages extends to seven degrees on the father's side and five degrees on the mother's side. The narrower limit is 5 degrees on the paternal side and three degrees on the maternal side. We have accepted the narrower limit in our definition, as for all practical purposes, this will be quite sufficient. So also as regards prohibited degrees. In the previous Draft Bill, the expedient which was adopted was to leave out all reference to *sapinda* relationships and prohibited relationship and to give lists specifying the persons between whom marriages will not be allowed on these grounds. We have avoided that and have attempted definitions.

Then, Sir, we come to the essentials for a Hindu marriage, and hon. Members will see that in clause 5, which is rather an important clause, the conditions which are laid down are these :

"(1) neither party has a spouse living at the time of the marriage ;"
etc.

The object of this Bill, and it is one of the important objects of the Bill, is to

ban polygamy. We want that monogamy shall be the rule.

SHRI P. C. BHANJ DEO (Orissa) : Why ?

SHRI B. GUPTA (West Bengal) : Without exception, by all people.

KHWAJA INAIT ULLAH (Bihar) : They do not believe in marriages.

SHRI C. C. BISWAS : As a matter of fact, my hon. friend must be aware that already there are laws to enforce monogamy in different parts of India, like Bombay and Madras.

SHRI T. PANDE (Uttar Pradesh) : For Hindus and not for others.

SHRI C. C. BISWAS : Yes, they apply to Hindus only. Whether others should be brought within the scope of such Acts is a different point with which we are not concerned now. Monogamy is enforced for Hindus under these laws in some parts of the country, and the idea of this Bill is to make it applicable to Hindus uniformly throughout India. As this Bill is going to be circulated for eliciting public opinion, I propose to reserve my comments until I see how the public reacts to the proposals contained therein. What I am pointing out is that in this respect it is not a departure from the previous draft, because monogamy—and along with it divorce—was an important feature of the old draft.

SHRI P. C. BHANJ DEO : Why ?

SHRI C. C. BISWAS : Reserve your doubts till a later stage. Possibly some of the doubts will be answered by the comments that we shall receive. I am not suggesting for one moment that these are not points on which there exist considerable divergences of opinion. There is no doubt about that. As a matter of fact, it is because of such divergences that though the proposal for a Hindu Code, was mooted several years ago in the forties, we have not been able to do anything up till now. So, naturally I am not suggesting that the proposals contained in this Bill will

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receive unanimous acceptance. We shall decide on the merits later on after opinions have been collected, after a Select Committee has considered the matter. It will then be for us to decide how far we can go, whether to accept or reject any of these proposals. These are matters on which considerable differences of opinion exist amongst orthodox sections, unorthodox sections, and social reformers and I do not propose to go into these questions at this stage. We shall have to consider all of them later on. In point of fact, we must not forget that there had been small pieces of legislation introduced and passed from time to time when considerable departures were made from orthodox Hindu law. Take the Hindu Women's Property Act of 1937.

SHRI S. MAHANTY (Orissa) : Will the hon. Minister please address the Chair ?

MR. DEPUTY CHAIRMAN : Order, order. The Chair can take care of these things.

SHRI C. C. BISWAS : The Chair can pull me up if I am not addressing the Chair.

SHRI J. R. KAPOOR (Uttar Pradesh) : The Chair is supposed to be pervading all over the House.

SHRI C. C. BISWAS : What I am saying is that on these points there are considerable divergences of opinion. If it was not for such diversity, the Hindu Code Bill would have been placed on the Statute Book long before.

SHRI B. RATH (Orissa) : Diversity on your side.

SHRI C. C. BISWAS : I do not know whether my hon. friend is referring to me personally. If the word "your" is used in the singular, I do not know what he means by it.

SHRI P. SUNDARAYYA (Madras) : He meant, on the Congress side.

SHRI C. C. BISWAS : My hon. friend is not probably aware that even amongst Congress members there is a good deal of difference of opinion. But, we have got to decide as a body what is best in the interest of the community. Hindu law has not been static. It has moved on ; it has always tried to respond to and meet the challenge of the times, it may be on a very large scale, but certainly in respect of many important matters.

I was referring to the Hindu Women's Property Act. I may also refer to the legislation for removal of the restrictions on marriages outside the Gotra. Sagotra marriages are now permitted under the law. There have been various laws passed from time to time which have sanctioned acts or proceedings not quite in consonance with the orthodox Hindu law. That is what I was pointing out. The trouble, so far as I can see, which did not permit the passage of the Hindu Code as it had been drafted last was that it was much too comprehensive and it gave the public a feeling that an attempt was being made to revolutionise the whole of Hindu law. An impression was created that a new Manu or a new Yagnavalkya was appearing on the scene and tampering with the whole of Hindu law. There was that impression created in several quarters. On the other hand if legislation had been introduced piecemeal, possibly it would have gone through and I was giving these instances where the Hindu Women's Property Act and other Acts were passed without much opposition. The suggestion that the whole of the Hindu law should be codified first came from the Rau Committee.

SHRI V. S. SARWATE (Madhya Bharat) : The Rau Committee suggested that it should be taken up in parts.

SHRI C. C. BISWAS : That Committee was first appointed in 1941 and that was for the purpose of clarifying certain matters which had come to light in connection with the Hindu Women's Property Act of 1937. Various amending Bills were introduced by private

members in the old Assembly. Then the Government agreed to appoint a Committee for the purpose of clarifying the doubtful points.

SHRI RAJENDRA PRATAP SINHA (Bihar) : May I request the hon. Minister to define the meaning of the word 'idiot' used in sub-clause (5) of Clause 2 ?

MR. DEPUTY CHAIRMAN : The hon. Member may move an amendment.

SHRI C. C. BISWAS : I don't like to be interrupted in this way.

SHRI RAJENDRA PRATAP SINHA : This will clarify the thoughts of hon. Members.

SHRI C. C. BISWAS : One thing at a time.

MR. DEPUTY CHAIRMAN : It is in the hon. Minister's power not to yield.

SHRI C. C. BISWAS : The object of the Rau Committee was to resolve the doubts felt as to the construction of the Hindu Women's Property Act and to clarify the rights conferred by the Act upon women.

SHRI T. PANDE (Uttar Pradesh) : On a point of information.

MR. DEPUTY CHAIRMAN : No point of information at this stage.

SHRI C. C. BISWAS : The Committee reported that the only satisfactory solution was to avoid piecemeal legislation and take up as early as possible the codification of Hindu law beginning with the Law of Succession followed by the Law of Marriage.

KHWAJA INAIT ULLAH : On a point of order.

MR. DEPUTY CHAIRMAN : There is no point of order when the Minister is talking. You will resume your seat. I am not allowing any point of order.

KHWAJA INAIT ULLAH : You said that there is no need of information. Without information, how can we discuss it ?

MR. DEPUTY CHAIRMAN : You have the power to speak after the Motion is moved.

SHRI C. C. BISWAS : This method of piecemeal legislation was not adopted from the beginning. I referred to this only in answer to an interruption from this side of the House.

SHRI H. N. KUNZRU : (Uttar Pradesh) : What did the hon. Minister say about the Rau Committee ? I could not hear it.

SHRI C. C. BISWAS : There were two Rau Committees.

SHRI RAJENDRA PRATAP SINHA : Can't hear.

SHRI C. C. BISWAS : I believe I possess a loud voice.

SHRI RAJENDRA PRATAP SINHA : Something is wrong with the mike.

SHRI C. C. BISWAS : There were two Committees over which Mr. Justice Rau was Chairman—the first and the second. The Second Committee produced a comprehensive draft Hindu Code. The first Committee was appointed for a limited purpose but in making their report they said that it was not right that they should legislate in this way bit by bit and they recommended legislation on a comprehensive scale. That recommendation was accepted and later on the second Rau Committee was constituted. After that Committee's report, Government took elaborate steps for eliciting public opinion. The Committee toured round the country, collected opinions, examined witnesses and then submitted a draft Bill. That was referred to a Select Committee which again reported on it and the Bill, in an amended form, was placed before the Assembly. We are now at a different stage. It is proposed to take up the question of changing the Hindu law not all at the same time, but in instalments. The present instalment deals with marriage and divorce. Legislations on minority guardianship, adoption, succession, etc., will come later. Sir, I was dealing with clause 5 which deals with the essentials of a valid

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- (i) neither party has a spouse living at the time of the marriage;
- (ii) neither party is an idiot nor a lunatic at the time of the marriage;
- (iii) the bridegroom has completed the age of eighteen years and the bride the age of 15 years at the time of the marriage.

SHRI D. D. ITALIA (Hyderabad) : All these are in the Bill and why should it be read ?

MR. DEPUTY CHAIRMAN : They are all in the Bill itself.

SHRI C. C. BISWAS : You will find all these conditions are not conditions which invalidate a marriage. There are some conditions, the breach of which makes the marriage void. Other conditions have been laid down the non-fulfilment of which renders the marriage voidable, and other conditions are there on breach of which you can obtain a dissolution of the marriage. All this, you will find in the later sections. I am just drawing your attention to this so that you may.....

PROF. G. RANGA (Madras) : This does not require fuller explanation and I do not think that he should be allowed more time.

1 p.m.

SHRI B. C. GHOSE (West Bengal) : It is already one o'clock.

MR. DEPUTY CHAIRMAN : What is the time the hon. Member may require ?

SHRI C. C. BISWAS : Sir, I will finish in two minutes.

PROF. G. RANGA : I do not think it desirable that he should. We want to know the difference between this Bill and the Hindu Code.

SHRI C. C. BISWAS : Then, I shall deal with this after lunch.

MR. DEPUTY CHAIRMAN : The House now stands adjourned till 2-30 p.m.

The Council then adjourned for lunch till half past two of the clock.

The Council re-assembled at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI C. C. BISWAS : Sir, I will now refer only to the departures which have been made in the present Bill, from the previous one. One important fact, to which I drew the attention of the House before lunch, was with regard to special marriages under the Special Marriages Act, marriages in civil form, which have been left out in their Bill.

Another important change, you will notice, is that full effect is now being given to the prevailing usage or customs in respect of marriages between *sapindas* or between persons within the prohibited degrees of relationship. In the previous Bill, as in this, it was laid down that "any text, rule, or interpretation of Hindu law or any custom or usage or Act in force before the commencement of this code shall cease in respect of these various matters dealt with in this Code." But there was no express saving of custom or usage as you now have in respect of *sapinda* marriages or marriage within prohibited degrees. Another important change is the non-inclusion of any special provision with respect to Marumakkattayam and Alyasantanam systems of law. As hon. Members know, there exist, now in the States of Madras and Travancore-Cochin, special laws relating to these persons, on the subject of marriage as also of joint family and succession. We leave these special laws undisturbed for the time being. The Bill accordingly proceeds on the basis that the rule of monogamy should be uniformly applicable throughout the country. Then, again, Sir, as regards the rules relating to *sapinda* relationship and prohibited degrees, there also should be uniformly applicable throughout the Union, subject of course to the custom and usage in each case. Among the followers of Marumakkattayam and Alyasantanam systems, the rule of *sapinda* relationship,

has very little significance, which is recognised by the exception made with respect to custom. Then, Sir, special provisions which are applicable to these persons to obtain a dissolution of marriage, for example, by a registered deed of dissolution or by an order of court for which no grounds are needed, should be continued on the basis of customs, though these are a departure from what is contemplated in this Bill. During the discussion of the previous Bill, there was a good deal of controversy on the question of recognition of customary forms for dissolution of marriage. Now that the draft Bill is going to give full recognition to customs, that controversy will no longer be necessary and all rights, recognised by custom, to dissolution of Hindu marriage, are now safe. In fact, in this respect, we have restored the provisions contained in the original Rau Committee Bill, which had been altered in the previous Bill. These are the main respects in which this Bill is a departure from the previous Bill.

Sir, I was referring before the lunch recess to the different forms of obtaining the dissolution of marriage—using the expression in a very broad sense. Let us rather use the word ‘termination’. Now we have recognised—three ways in which marriages, solemnised under this Act, or even before the commencement of this Act, may be terminated in certain circumstances. The previous Bill made no sharp distinction between nullity of marriage and dissolution of marriage. It placed them practically on the same footing. In this Bill we say, marriages may be terminated in three ways. We have avoided the word “dissolution”. The grounds on which a marriage may be declared null and void are very limited. For instance, if it was a bigamous marriage; that is, if at the time of the marriage, there was another spouse living, that will nullify the second marriage. The other ground is that if the marriage contravened the rules relating to *sapinda* relationship or prohibited degrees of relationship, then also the marriage may be declared null and void. The position, in the eye of the law, will be as if he marriage had not taken place. The

question is of great importance as to how it will affect the issue of any such marriage whether they will be legitimate or illegitimate. Strictly speaking if the marriage is void *ab initio*, then the issue should be illegitimate. But that might create hardship so far as the children are concerned. The only relief this Bill gives is that if at the time of this bigamous marriage, the parties acted *bona fides* in the belief that the other spouse was dead at the time, and therefore they were free to marry, then, in those circumstances, the children will be legitimate. That is a new provision which we have introduced. I do not remember if you have had that kind of a provision in the other Bill. I am not sure.

SHRI H. N. KUNZRU : Such a provision is there in the Hindu Code Bill.

SHRI C. C. BISWAS : It may be there. I cannot recollect; I do not suggest that it is not there. You do not find such a provision in, for instance, the English Act. But it is a very necessary provision and it has probably been taken from the Draft Bill. I consider this to be an important provision because it saves the legitimacy of the children of even void marriages in certain circumstances.

Then as regards marriages which are simply voidable, which can be invalidated by a decree that will not affect the legitimacy of the child. When a marriage is dissolved, naturally the question of legitimacy does not arise. If you kindly refer to the various clauses of the Bill which relate to these three different forms of terminating marriages, you will find the grounds set out there. I need not refer to them in detail.

SHRI H. N. KUNZRU : Will the hon. Minister kindly refer to this point and make it clearer ?

SHRI C. C. BISWAS : Which one ?

SHRI H. N. KUNZRU : The question of the validity of children of marriages declared invalid. What he said has not made the point clear. If the marriage is invalid, does it not mean that it is not legal and that the children, therefore, are not legitimate ?

SHRI C. C. BISWAS : The decree of invalidity operates with effect from the date on which the decree is pronounced ; whereas a decree that the marriage is null and void operates from the date the marriage is solemnized—the date from which the so-called marriage is solemnized. When a decree declares a marriage invalid on the grounds set out, there is no question of affecting the legitimacy of the issue already born. That is the position.

SHRIMATI MONA HENSMAN (Madras) : I would be grateful if the hon. Minister would kindly clear this point, Sir. He said that the validity of the marriage or otherwise would date from the time the marriage was solemnized, and that if a marriage were declared null and void, it would apply from the time the marriage was solemnized. In that case how can the children be legitimate ? Would they not become a legal fiction ?

SHRI C. C. BISWAS : Exactly so. The position will be as if there was no marriage at all between these two parties. If it is declared null and void, then in the eye of law there was no marriage. Therefore they were living together without any lawful relationship between them. Therefore, if any issue is born of such union, they will not be legitimate. That is the position. That is what I have stated. And an exception has been made where the parties acted in good faith, in the belief that the former spouse was not living, then, the child is declared to be legitimate. That you find in clause 17 which says :

"Consequences of termination of marriage in certain cases.—Where a marriage is declared null and void on the ground that the former husband or wife was living and it is adjudged that the subsequent marriage was contracted in good faith and that one or both of the parties fully believed that the former husband or wife was dead, or where a marriage is declared invalid, the children begotten before the decree is made shall be specified therein and shall in all respects be deemed to be, and always to have been, the legitimate children of their parents."

SHRI C. G. MISRA (Madhya Pradesh) May I know what is the exact meaning of the word "begotten" in that clause ?

SHRI C. C. BISWAS : Will the hon. Member kindly speak louder ? I could not hear what he said.

SHRI C. G. MISRA : What is the meaning of the word "begotten" appearing in this clause ? Does it mean the child actually born or does it include also the child in the womb of the mother ?

MR. DEPUTY CHAIRMAN : He asks whether it includes the child when the woman is in the ancient stage, whether the word "begotten" includes the child in the womb of the mother also.

SHRI C. C. BISWAS : I should think so. That is the usual meaning of the word "begotten" and it has been used in that sense in this Bill as well.

DR. SHRIMATI SEETA PARNAND (Madhya Pradesh) : If the hon. Minister would kindly consider it, may I submit to him a suggestion ? In this way there can be several places where there can be difference of opinions. If the Bill is to go for circulation, no detailed debate need take place now and probably it would be better if the hon. Minister explains only the new points in this Bill.

SHRI C. C. BISWAS : That is what I am trying to do ; but when certain points are raised, I have to answer them. As a matter of fact, all these questions will be discussed in full after opinions have been received. And I may also tell the House that it is my intention that this Bill and the Special Marriage Bill which is under circulation, should be referred to a common Joint Select Committee of the two Houses, and that Joint Select Committee will consider both the Bills.

DR. SHRIMATI SEETA PARNAND : In that case, I submit it would not be necessary to go into any further details just now.

SHRI C. C. BISWAS : I should like to avoid discussing details ; but

Dr. Kunzru asked me to point out in what respects this Bill differs from previous Bills, and so I was trying to explain that.

SHRI H. N. KUNZRU : And it is necessary, obviously.

SHRI C. C. BISWAS : I have also referred to this for the reason that in the report of the Select Committee to which the previous Bill was referred, they have thought it advisable to make a sharp distinction between nullity and dissolution of marriage. That is why I referred to what is provided in the Bill now

As regards the registration of marriage, the question was asked whether there is provision in this Bill for compulsory registration of marriages, or whether the registration is optional. The question of making it compulsory or leaving it to be optional has been left to the State. If a State thinks that it should be compulsory registration, it can make it compulsory.

Sir, I move that the Bill be circulated for eliciting public opinion.

Is the amendment to be moved now? According to me the date is 14th February. But if the other amendment is moved, I shall accept it.

MR. DEPUTY CHAIRMAN : Motion moved :

That the Bill to amend and codify the law relating to marriage and divorce among Hindus be circulated for the purpose of eliciting opinion thereon by the 14th February 1953.

There are three amendments to this Bill.

Mr. Rajagopal Naidu can move his amendment.

SHRI RAJAGOPAL NAIDU (Madras). Sir, I am not moving my amendment, as the hon. Minister has told us that he is going to accept the amendment that is being moved by another hon. Member.

MR. DEPUTY CHAIRMAN: Thank you. Then Mr. Sarwate can move the other amendment.

SHRI V. S. SARWATE : Sir, I wish to have a few minutes....

MR. DEPUTY CHAIRMAN : You can move the amendment and then speak afterwards on both the amendment and the motion.

SHRI V. S. SARWATE: Sir, I move :

That in the motion, for the words and figures "by the 14th February 1953" the words and figures "by the 1st March 1953" be substituted.

MR. DEPUTY CHAIRMAN : Amendment to the motion moved :

That in the motion, for the words and figures "by the 14th February 1953" the words and figures "by the 1st March 1953" be substituted.

So Shri B. B. Sharma's amendment goes.

SHRI KISHEN CHAND (Hyderabad) : Is the hon. Minister prepared to accept the amendment ?

MR. DEPUTY CHAIRMAN : He is prepared to accept that. He has accepted.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal) : Mr. Deputy Chairman, Sir, I confess I cannot congratulate the hon. the Law Minister on the manner in which he has sought to introduce this Bill. He has tried to make out that the previous attempt at codifying the Hindu Law in the shape of the Hindu Code Bill met with opposition on a wide scale from a large circle of Hindu society for the reason that it was a comprehensive measure embracing most of the topics included under Hindu personal law. As a matter of fact, it had been brought out as a comprehensive measure, but, the opposition that was voiced against that measure was not so much on account of its comprehensiveness as on account of what may be called, generally speaking, its anti-Hindu tendency; so much so that the Hindu Code Bill was facetiously dubbed as the anti-Hindu Code

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Bill, introduced as it was by a gentleman who was then the Law Member who had, if I might say so without meaning any disrespect, not the slightest respect for the traditions of Hindu culture and civilisation. We would have expected our present Law Minister who, I doubt not, has got much greater reverence for the spirit of Hindu culture, not to have brought forward a similar measure imbued with the same anti-Hindu spirit. It is not on the ground of comprehensiveness or the lack of it that such a measure has to be judged. As a matter of fact, if you want to enforce a measure of this description wholesale, then it evokes great opposition. So our Law Minister was shrewd enough to think that it were better if it is introduced piece-meal, by instalments, as it were, so that it ought to become mere palatable and less obnoxious and offensive. I should think, on the other hand, that it is better and mere straight forward to have the whole thing *en bloc* before us than to have this sort of thing, this sort of infiltration, as it were, more or less like introducing the thin end of the wedge. It is all the more insidious and pernicious, if I may be permitted to say so. A person may be killed outright by the administration of a big dose of opium but, it does not render the act more civilised or more humane if you inject little bits of opium into him so that ultimately you can have the man entirely doped and a drug addict for the rest of his life.

SHRI C. C. BISWAS : He may survive a medicinal dose.

PRINCIPAL DEVAPRASAD GHOSH:

I suppose our hon. the Law Minister prefers homeopathic doses to allopathic treatment. Anyway, I am coming to the merits of this measure.

Of course, it is difficult, at this stage to go into details ; this motion is for circulation and it might be argued that since it is for circulation for eliciting public opinion, what is the harm in the motion being passed without much discussion of the merits of the thing ? But, I should think that as the hon. the Law Minister has taken the trouble

of going through, in some detail, the various provisions and clauses of the Bill, and, as the subject matter which is covered by this Hindu Marriage & Divorce Bill is of fundamental importance. I think some words in brief ought to be said in a reference to the merits of the measure.

Now, there are two things mainly envisaged in this Bill. One is the introduction of monogamy as the compulsory form of marriage for the Hindus and the other is the provision for having divorces under certain conditions for Hindus, essentially Hindu sacramental marriages. I shall take the divorce point first. I suppose the hon. the Law Minister knows that monogamy and divorce—these are not logical corollaries, one of the other. There are communities in which there is divorce but no monogamy as for instance the Islamic Community. There are again communities in which marriage is generally monogamous but, there is no divorce. I think it will be no news to our hon. the Law Minister if I tell him that sacramental marriages celebrated according to the Roman Catholic Christian rites are monogamous marriages, but no divorce is allowed. People who like to go in for the adventures or delights of divorceable marriages are in Roman Catholic Europe allowed to do so, but they have to go through the civil form of marriage. No marriage, celebrated according to the rites of the orthodox Roman Catholic Church, is followed by divorce. In this connection, I may say, in passing, that here also another Bill for civil marriage with divorce is on the anvil as the hon. Minister has just pointed out and reminded us. I should think that any person who likes or who prefers marriage with its attendant divorce is quite welcome, if that Bill is passed, to do so.....

SHRI C. G. K. REDDY (Mysore) : He can do it even now under the Civil Marriage.

PRINCIPAL DEVAPRASAD GHOSH: My hon. friend has pointed out that he can do even now under the Civil Marriage Act but, then, why

should not the Government let the vast bulk of Hindu society alone ? I make bold to say, even today, speaking in 1952.

DR. SHRIMATI SEETA PARMANAND : Sir, with your permission, may I appeal to the hon. speaker that all the arguments in favour or against will be more effective at the consideration stage ? Sir, I am just making a suggestion; it will save us time and money for the country. It will be more effective at that time. And, I am just making a suggestion.

PRINCIPAL DEVAPRASAD GHOSH : I should have agreed to the suggestion just now put forward by the hon. the lady Member but for the fact that the hon. the Law Minister has taken the pains to go through the Bill, more or less, clause by clause, I think the matter is of such.....

MR. DEPUTY CHAIRMAN : Professor Ghosh, the scope of the discussion is only the principles of the Bill.

PRINCIPAL DEVAPRASAD GHOSH : I was discussing only the principles I shall not go into details.

MR. DEPUTY CHAIRMAN : Please confine your remarks to the principles.

PRINCIPAL DEVAPRASAD GHOSH : I shall confine my remarks to the two points, monogamy and divorce, the two fundamental principles involved in the Bill.

As I was telling you, Sir, persons who like or prefer marriages of which divorce is a logical corollary, might go in for the marriage under the present Civil Marriage Act or under the new Act which is on the anvil ; but, I would appeal to the Government to let the vast bulk of Hindu society which still believes in the greatness of Hindu culture and believes in the sacredness of marriages to go their own way and, to leave them alone. There are many points on which we, as Indians, suffer from an inferiority complex ; on points of material wealth, on points of political power, on points of the armament

race, we Indians feel very poor and sometimes we feel very inferior ; but, if there is one point on which we Indians, and particularly we Hindus feel not at all inferior but feel quite proud of our ancient heritage, that is in the domain of our domestic ideals and family life traditions, particularly based as they were upon the institution of marriage as a sacred institution inviolable and indissoluble.

I shall now come to the other point, the point of monogamy. Now, this, is not the place nor the occasion to go into an elaborate discussion of the merits and demerits of monogamy versus polygamy. It stands to reason, nobody will deny, that monogamy is more natural than polygamy if, for no other reason at least.....

SHRI C. G. K. REDDY : If I may interrupt the hon. Member. Would the hon. Minister tell us whether polyandry is permitted ? If the Bill does not ban polyandry, can that be permitted ?

PRINCIPAL DEVAPRASAD GHOSH : It bans both of them. Anyway, as I was saying, if, for no other reason.....

SHRI H. N. KUNZRU : "Former spouses" is there.

PRINCIPAL DEVAPRASAD GHOSH : Monogamy is the natural order of things, as I was telling you, if for no other reasons, at least for arithmetical reasons because as a matter of fact the number of men and the number of women in any society are more or less equal. There is another side however, to the laws of marriage whether based upon monogamy or polygamy. These laws and customs of marriage are more or less dictated by considerations of social necessity and of the survival of the race. One can easily visualize conditions in which polygamy might be more conducive to the preservation and expansion of the race. Even as late as the termination of the last world war, when males of vigorous age capable of producing a vigorous progeny were decimated by the war, serious discussions took place in Europe and America

[Principal Devaprasad Ghosh.] whether polygamy should be legalised to some extent. As a matter of fact, though polygamy was not adopted, illegitimate births were sought to be legitimized. These are things which are not very savoury, but still social necessity sometimes dictates these things.

What I was going to tell you is this, that volumes can be written about the merits and demerits of these various systems of marriage. But one thing is clear, and that is this, that if any State is, on principles of general morality, to lay its emphasis on monogamy as the better and in fact the only permissible system, then it has to lay down laws applicable to all the subjects of the State alike. It cannot make any distinction. What is sauce for the goose must be a sauce for the gander. In India there are two big communities, the Hindu community and the Mussalman community. Among the Mussalmans there is polygamy, and there is divorce.

MR. DEPUTY CHAIRMAN : We are concerned with the Hindu Marriage and Divorce Bill.

PRINCIPAL DEVAPRASAD GHOSH : I am taking that point. I am not pronouncing on the merits or demerits. But the fact remains that in the great Islamic society polygamy is permitted, and also divorce. If polygamy or bigamy is to be looked upon as not merely morally undesirable or evil, but as a "crime", as it is sought to be done under section 18 of the Bill, which says that bigamy will be punishable under certain sections of the Indian Penal Code, it stands to reason that bigamy should be equally punishable whether a Hindu or a Mussalman commits it. An action which is "criminal" on the part of one section of the citizens of a land must be equally criminal in the case of another section of the citizens of that land. I should like to ask the Government if it is prepared to extend the principle of looking upon polygamy or bigamy as a "crime" for all the citizens of India.

Then at least there would be some virtue in the consistency or the impartiality which is sometimes sought to be made out as the hallmark of a "secular state". I should therefore ask the hon. the Law Minister to tell us whether he is prepared to universalise these two principles, namely, the introduction of divorce as a possible termination of marriage, and the introduction of a provision making polygamy and bigamy a criminal offence, and introduce a Bill making uniform marriage laws for the entire community whose members are the subjects of this State. If the Government is not prepared to do that, then I feel that the wisest and the best and the most reasonable course for the Government to adopt would be to treat the personal laws of the various communities that make up the Indian nation as more or less sacrosanct, excepting in cases in which there are customs or practices which are abhorrent to the moral sense of humanity.

One other point I shall make before I resume my seat, very briefly, and it is this, the institution of marriage has been devised by human society from time immemorial mainly for the purpose of social health and morality and the upkeep and the improvement of the future of the children. Our hon. Law Minister knows as well as any Member in this House that the condition of Western society, on the model of which we are trying to shape some portions of Indian society at least has on account of divorce become perilous in the extreme. I suppose the Law Minister has kept himself quite abreast of recent publications relating to sexual relations in Europe and America, for instance, Judge Lindsay's famous book on "Companionate Marriage", and the Kinsey Report on American Morals and Sex Life,—which books I may frankly confess, are distressing reading—showing the dire straits to which family life has been reduced in that country for the simple reason that in a family in which husband and wife relationship is of a temporary nature, children, when they happen to be born, are left more or less derelict. There is nobody to look

after them, when the parents quarrel and separate. There is a tussle over the custody of the children, and practically speaking what happens is that the moral atmosphere created in the family becomes vitiated and most unhealthy and the future of the children is jeopardised to a great extent. Not merely that. The relation of marriage, which we all of us hold so very sacred, becomes more or less degraded. We frequently read in newspapers of marriages of women five times divorced, with men six times divorced. This sort of thing appears in newspapers every other day. That shows that a marriage is practically reduced to a farce owing to the facility of these divorces,—practically to such a mockery that it is hardly distinguishable from promiscuity.

I should therefore appeal to the hon. Law Minister and through him to the Government of India that they should think twice before introducing a measure which in itself is unnecessary and uncalled for and, in my opinion, extremely undesirable and repugnant to the innermost spirit of Hindu society. I would request him even at this stage if possible to withdraw the Bill altogether.

SHRI B. K. P. SINHA (Bihar) : Mr. Deputy Chairman, this is a very simple measure. As the previous speaker has pointed out, it has two important features—divorce and monogamy. He has criticised the introduction of both on the ground that they are repugnant to Hindu traditions.

SHRI ABDUL RAZAK (Travancore-Cochin) : Who has criticised ?

SHRI B. K. P. SINHA : The previous speaker. The contention is that the Special Marriage Bill is going to be introduced and that Bill gives ample latitude to those who want to provide for a future contingency of divorce to have their marriage solemnized under that Bill. It is true that that Bill will have that effect, but what will be the consequences which will follow a marriage of that type ?

According to the present Hindu law, if the marriage is within certain prohibited degrees or outside a certain caste or outside a certain religious group, certain consequences follow. The children of those marriages are in some cases considered illegitimate and they are deprived of the rights of succession and inheritance in many cases. What shall happen to such cases ? If the Special Marriage Bill is to provide that even if there are marriages of this type under the Act, the children will have all the rights which a normal Hindu can have under the ordinary Hindu law, then in that case, I think, that Bill will be on the same character and of the same order as this Bill, because that Bill will operate for the whole of the Hindu society and the same consequences will follow which will follow after the operation of this Bill or this Act. In my opinion, therefore, whether we introduce provisions of the sort that are in this Bill, by amending the Hindu law itself or by the Special Marriage Bill, it makes no difference. The consequences are the same in every case. But he contended that Hindu law has a sacramental character. It has a sacramental character but this Bill is not a compulsory Bill. It does not introduce compulsion. This Bill does not lay down that whoever marries in accordance with the provisions of this Bill, will have to divorce his wife or her husband at some stage or the other. Those who want to maintain the sacramental character of marriage, those who want to treat marriage as inviolable and immutable, would for all times have the liberty, even after this Bill becomes an Act, to treat it as such. It is not a measure of compulsion.

SHRI B. C. GHOSE (West Bengal) : Same is true of the West—America or England.

SHRI B. K. P. SINHA : Of course. There is no difference. Therefore, Sir, on the ground of preserving the sacramental character of Hindu marriage, this measure should not be objected to.

SHRI C. C. BISWAS : May I correct my hon. friend ? He is not correctly interpreting the scope and object of the Bill. Clause 5 specifically provides :

“ A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled.....”

And then certain rights are given to the parties to a marriage solemnized under this Act. Those rights include the right of obtaining a divorce. So it is not correct to say it is optional. It is optional only in the sense that you are not forced to go to the divorce court. But you may be forced to go to the divorce court. The other spouse may force you to go there.

SHRI B. K. P. SINHA : Then the grounds of divorce, in my opinion are very conservative. However, when the hon. Member from Bengal contends that this is introducing something extremely ‘un-Hindu’ into the Hindu law, I respectfully differ from him. Marriage even in our Hindu society was not considered immutable. In certain cases, termination of marriage was allowed. Sir, in this connection, I will quote one sloka from Narad and Parashara :

नष्टे मृत प्रव्रजिते क्लीबे च पतिते पत्यौ
पंचस्वाप्तसु नारीणां पतिरन्यो विधीयते।

There are five contingencies in which women even according to the *smriti-karas* were free to terminate marriage and take another husband.

SHRI T. PANDE : Have you got any example where these slokas are applied to Hindu society ?

SHRI C. C. BISWAS : I may point out the name of the late lamented Pandit Ishwar Chandra Vidyasagar.

SHRI V. S. SARWATE : It is *patau* and not “patyau”.

SHRI B. K. P. SINHA : Sir, the Hindu pandits are divided into two distinct classes over the interpretation of this sloka. The orthodox school thinks

that this provides for a contingency which arises between betrothal and marriage, before marriage takes place. Now there is a progressive school which thinks this sloka provides for a contingency which arises after marriage. The mover of this Bill has just pointed out the name of Pandit Ishwar Chandra Vidyasagar who held this view. I will point out the name of another, a Sanskrit scholar and eminent jurist, Pandit Gulab Chand Sircar Shastri—who came from Bengal. Then, Sir, if we analyse this sloka, it will be clear that this deals with a post-marital contingency. It says that when a person is discovered to be impotent, then the wife is free to take another husband.

SHRI V. S. SARWATE : How to discover ?

SHRI B. K. P. SINHA : The discovery of impotence is not a premarital affair. This discovery is always post-marital. This cannot be discovered between the stage of betrothal and the stage of marriage. It is always discovered thereafter.

SHRI B. K. MUKERJEE (Uttar Pradesh) : If the impotency is before the marriage, then there is a separation. But what happens if the impotency is after the marriage ?

SHRI B. K. P. SINHA : This speaks of impotency in general. It does not speak of impotency of pre-marital or post-marital period.

DR. RADHA KUMUD MOOKERJI (Nominated) : On a point of order, Sir, I am afraid the ethical level of the debate is somewhat deteriorating.

SHRI B. C. GHOSE : No, Sir.

MR. DEPUTY CHAIRMAN : It is not deteriorating. The hon. Member may please be brief.

SHRI B. K. P. SINHA : I have to explain the facts, Sir. What am I to do ?

DR. SHRIMATI SEETA PARMANAND : May I appeal to you for one thing ? Is it necessary to go into the details ?

MR. DEPUTY CHAIRMAN : Your appeal has fallen on deaf ears.

SHRI B. K. P. SINHA : Then again, Sir, *Nashite* means "if the man has disappeared". And generally there is a very short interval between betrothal and marriage.

MR. DEPUTY CHAIRMAN : Need not go into details.

SHRI B. K. P. SINHA : I am simply explaining, Sir, that the interpretation of this sloka is that it provides for a post-marital contingency. Then, Sir, I will read one line from another purana Vrihannaradiyam. It says there are certain things which were considered perfectly legitimate in Satyuga or Dwapar or Treta but which came to be recognized (*Interruption*) as improper in Kaliyuga.

दत्ताक्षतायाः कन्यायाः पुनर्दानं परस्य च ।

That is, giving in marriage of a daughter who is a virgin but who has become a widow. That means there are smritis and puranas which recognize that marriage is not immutable, not unbreakable and in certain contingencies it could break.

My friend referred to the Roman Catholic society. There is monogamy and there is absence of divorce there. In Roman Catholicism, while divorce is not permitted, there is provision for a declaration of a marriage as a nullity. Take the famous case of the Duke of Marlborough. His wife was given a decree of nullity and their marriage was cancelled even though the wife had lived with the husband for a long time and borne children.

SHRI B. C. GHOSE : That was for State purposes.

SHRI B. K. P. SINHA : It was only on the ground that she had not given her consent and if she had given it, it was only under duress.

PRINCIPAL DEVAPRASAD GHOSH : That was according to the law of marriage.

PROF. G. RANGA (Madras) : He is only quoting an example.

SHRI B. K. P. SINHA : In societies in which no divorces are granted, adultery is not considered a very great sin in practice.

AN HON. MEMBER : Where ?

SHRI B. K. P. SINHA : In Roman Catholic countries adultery is very often ignored but not so in Protestant countries.

SHRI B. C. GHOSE : Nowhere..

MR. DEPUTY CHAIRMAN : The hon. Member will please avoid making any reflections on other societies.

SHRI B. RATH : Reflections on Hindu society can be freely made.

SHRI B. K. P. SINHA : If there is no provision for divorce, hon. Members should be prepared to tolerate adultery and no Hindu will tolerate adultery. If we are not prepared to tolerate adultery, then we should make provision for divorce.

AN HON. MEMBER : Have we no adultery ?

MR. DEPUTY CHAIRMAN : Order, order.

SHRI B. K. P. SINHA : Then he spoke of the future of children. The main purpose of marriage is the upbringing of children.

SHRI B. C. GHOSE : Sir, I wanted to put a legitimate question.

MR. DEPUTY CHAIRMAN : I called you to order, so that there is no cross-talk.

SHRI B. C. GHOSE : Sir, personally I am not interested in the Bill. I do not know very much about it but I am interested that facts should be

[Shri B. C. Ghose.]
correctly told. He said that in societies where there is no divorce, there is adultery, and I think that would be a reflection on existing society here.

MR. DEPUTY CHAIRMAN :
You may proceed.

SHRI B. K. P. SINHA : This is a mere statement of fact. If a statement is a reflection on any society, it does not matter.

MR. DEPUTY CHAIRMAN : I would appeal to hon. Members to carry on the debate with a sense of dignity and decorum. It is a very serious matter which we are engaged in and I do expect hon. Members to carry on the debate with a sense of dignity and decorum.

SHRI B. K. P. SINHA : The hon. Member talked about the future of children ; that is provided for in this Bill by making the provisions for divorce very very difficult. It is not as if where divorces are granted, the children will be in the streets. Such cases are very rare. If a marriage is very unhappy, if the parties cannot pull on together, in that case the children are always unhappy. You cannot prevent the unhappiness of children by simply putting a ban on divorce. In many cases, if there is divorce and if the spouses enter into new relationships, the children are better looked after, better provided for, better cared for, while if there is no divorce, the children are rarely taken care of by their parents.

I was surprised to find, Sir, that my hon. friend in a way criticised monogamy. Societies do differ. He quoted the case of certain European countries in which plenty of young men of marriageable age died without marriage. In those societies polyandry should be introduced. Yes, societies do differ, but the Indian society at present does not need provisions of this sort, because this society is overpopulated. The population is increasing at the tremendous rate of 5 millions every year.

PRINCIPAL DEVAPRASAD GHOSH :
Better stop marriages.

SHRI B. K. P. SINHA : If I were free, I would have done that. Therefore that argument is an argument for monogamy and not against monogamy. Monogamy is practised in Hindu society as a general rule. Lapses from monogamy are rare ; I think it may be one out of a thousand cases, or one out of a ten thousand cases. This is the ordinary rule of Hindu society.

PRINCIPAL DEVAPRASAD GHOSH :
If monogamy is the general rule, why is this provision ?

SHRI B. K. P. SINHA : If that is the ordinary rule, what mischief is done if it is enforced by law ? This Bill simply recognises things as they exist.

PRINCIPAL DEVAPRASAD GHOSH : Extend it to all communities.

SHRI B. K. P. SINHA : Even the old Smritikaras said that monogamy should be the general rule in Hindu society. Apastambha prohibited bigamy if the first wife was living and having children and was willing to perform religious duties. Manu and Yagnavalkya laid down that a man can marry again if the first wife died. This in my opinion is the pristine state of affairs in Hindu society. The Bill simply recognises this fact, and I do not see how this can be objected to. He says, "Why not introduce this into other societies ?" If we cannot do good to the whole of India, we should not do good to a part of it, is an argument which I can never appreciate. If monogamy is something desirable, I do not see why we should not introduce it in Hindu society, unless we could introduce it in other societies as well. He said that we are partial. Partiality in virtue is something which is good and not bad.

My friend urged that the personal laws of Hindu society are sacrosanct and should be treated as such. The personal laws of Hindu society were

never considered sacrosanct even by the oldest Smritikaras. They recognised that the personal laws were subject to change when new conditions arose. I have already referred to Vrihannaradiyam. I do not like to read that text again, but it says that certain things which were considered perfectly legitimate and religiously proper in the ages before Kaliyug were not considered so in the Kaliyug, because new circumstances have intervened, new conditions have arisen.

One was samudra yatra. It was permissible in pre-Kaliyuga and it is not permissible in Kaliyuga. The system of Niyog was prevalent before and it is not prevalent in Kaliyuga. In Vrihannaradiyam they have recognised that when new conditions arise, these secular rules or secular laws of Hindu Society change and should be changed. In a similar way Raghunandana has quoted Aditya Puran with approval. The Smritis recognize that when new conditions arise, Hindu law should be changed. The State in India never accepted the position that the State was not competent to interfere with the secular life of Hindu society. I find that from the very beginning of British rule in India the State has interfered with secular law of the Hindu Society. I can quote numerous Statutes which have been passed and especially in the narrow field with which we are concerned today. As early as in 1856 the Hindu Widows Remarriage Act was passed.

DR. ANUP SINGH (Punjab) : May I ask a question ? If this Bill is to be circulated for eliciting public opinion, I personally don't see what is the point in making a long speech just now. We will be going over the same ground again.

MR. DEPUTY CHAIRMAN : I am allowing some debate and let it be confined to the Bill.

SHRI B. C. GHOSE : When it is being circulated for public opinion, the public will be benefited by the discussions in this House.

SHRI B. K. P. SINHA : The Special Marriage Act, 1892, The Sharda Act and then there are two Acts in Bombay and Madras—Bombay Act XXV of 1946 and Madras Act VI of 1949 which prescribe monogamy. Then the India Act XIX of 1946 and Mysore Act X of 1933, The Hindu Marriage Validity Act, 1949, Indian Special Marriage Act 1872, Hindu Marriage Disabilities Removal Act, 1946, all these measures interfere with the secular aspects of the Hindu society. I therefore don't see any point in the arguments advanced by my predecessor. There are good reasons for the introduction of a measure of this kind. This subject is in the Concurrent List and the States have not been slow.....

MR. DEPUTY CHAIRMAN : They have not questioned the right of this House in passing this measure. You need not worry about it.

SHRI B. K. P. SINHA : I am driving at something else. The States have not been slow to take advantage of their legislative competence. In Madras and Bombay they have passed Acts prescribing monogamy and divorce. They have passed Acts permitting marriages between different castes, sub-castes and gotras. In the other States there are no comparable Acts. What shall be the consequence of this state of affairs ? The consequence will be that Hindu society will break up into as many parts as there are States in the country. Laws on the same subject may not be uniform in the various States. One nationality, a unified nationality requires a unified society and when the Hindu society itself is breaking up into 100 parts, society will be in danger, and the nation will be in danger. Therefore a measure of this kind was necessary. It is none too early and I don't think that we shall be serving the interest of this nation and this country by opposing a measure of this sort. Sir, I support this measure.

DR. ANUP SINGH : May I ask a question from the hon. Minister ?

MR. DEPUTY CHAIRMAN :
Shrimati Seeta Parmanand.

DR. SHRIMATI SEETA PARMANAND : Sir, when I have already stated that this is not the time when we should go into the details of the Bill, it would be very wrong on my part to go into the details now but only.....

SHRI B. K. MUKERJEE : Please do so.

DR. SHRIMATI SEETA PARMANAND : I will do so at a later date. No subject is dearer to my heart than any legislation which affects women's rights and so it would be with the greatest pleasure that I would go into details when there is any such legislation. To come to the point, I would like to point out only a few fundamental principles. This Bill should not be considered as dealing with anything that will be foreign either to the tenets of the Hindu religion or to the present society or the ancient tradition. First and foremost, the new Constitution, it is forgotten, has given equal rights to men and women. Men are no longer the sole judges who would decide what women should do and should not do. There are enough number of women in the country who are able to think on behalf of their sisters. Their eyes are more widely open to the sorrows and tribulations of their suffering sisters. The men who are used to polygamy perhaps.....

SHRI T. PANDE : This is for both.

DR. SHRIMATI SEETA PARMANAND : Of course it is so. I have not heard the interruptor's remark. So I cannot reply. I submit that this is not the time to go into details. This Bill is particularly overdue as we cannot go according to the old traditions or old law for the simple reason that according to the Constitution men and women will have the same rights now both socially, legally and politically. For that reason the time for making any distinction is gone. Once a majority of women are able

to think on their own, about their own interests, they are not likely to either break their own homes even if divorce is permitted. Nobody likes to break one's home. Law is always meant, as everybody knows, to give redress in cases of any suffering. So only, if any woman is unhappy in her home, is she likely to take recourse to this law of divorce. Monogamy of course is absolutely necessary and it is wrong on the part of people to think that polygamy should be permitted because perhaps polyandry was permitted—they don't know—polyandry is permitted perhaps in backward parts like Himachal Pradesh—which is very remote—and in the lower sections of Hindu society—otherwise polyandry is not at all permissible, but polygamy is absolutely permitted even among the highest castes of Hindu society. It is all right to say that Manu and other old Smritikars have raised women to the highest pedestal. He has said :

“^यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।
यत्रैतास्तु ताज्यन्ते सर्वस्तत्राफलाः क्रियाः ॥”

*[Gods reside where women are honoured and where they are given thrashing all (virtuous) actions become useless.]

At the same time the same Manu has said :

‘पिता रक्षति कोमारे भर्ता रक्षति यौवने ।
पुत्रो रक्षति वार्ष्णेये न स्त्री स्वातन्त्र्यमर्हति ॥’

He has put her under the tutelage of the father in her childhood, husband in her youth and of her son in her old age. This may be an interpolation as there have been various interpolations. It is wrong to make out as some hon. Member said that somebody wants to be a modern Manu, somebody else wants to be Yagnavalkya or Parashar. Why not? Hindu law was never static and it was always dynamic

*English translation.

and that is why from the second century onwards to the 11th century, upto the age of Yagnavalkya, you would find various commentaries as of Narad, Parashar and others which will have different interpretations of different customs. Similarly I would like to point out to those who at this stage would like to criticise the Bill in one way or the other that though Manusmritis allow various privileges to the Hindu woman, on account of various reasons these privileges enjoyed by women were taken away mostly on account of political conditions and disruptive conditions in the country and the Shastras class women and Shudras together in saying that they are not entitled to repeat Vedas. You are aware of "शूद्र गंवार् पशु नारी" etc.

That came to be recognized and even if certain privileges were given to a community by law, gradually they were taken away.

All those other arguments we are aware are there e.g. the distinction between the social and legal Status of men and women in Smriti days. I would not go into them. It is absolutely irrelevant. After all, it has been before the country. It is not that the country is going to wake up to this for the first time. They are waiting to see that this first step is introduced early. Half a loaf of bread is better than no bread at all. The women of the country would have welcomed the Civil Code Bill instead of the Hindu Code. But they would take this as a first step and then gradually take the next step, because we believe that society must be educated first and legislation must follow next. But as far as this clause is concerned, that is, about monogamy and divorce, there is no doubt that this legislation is overdue. Sir, you are aware of the present day conditions—I do not blame the men; women are to be blamed. Where women are going to public offices and taking part in the economic life of the country, it is natural that some of them may take a liking for each other. The man may have previously married and may have children. The woman may not have knowledge of it and the second marriage takes place without the knowledge of the fact on the part of the

woman that the man is married. In such cases, it should be open for one woman to get a legal remedy. We must grant that if we have so much pride in the Hindu society, we must have so much confidence in the education of our own sisters. We must have faith that their culture and their education would not allow them to shake the foundations of their society by taking recourse to divorce and remarriages again and again. The trend day to day is to preserve our ancient culture and to imitate modern conditions elsewhere but to strike a medium path between the two.

I would appeal to the House—there may be those who think that this should not be introduced and others who think that it may be introduced—not to give the country any direction...

AN HON. MEMBER : To the country ?

DR. SHRIMATI SEETA PARMANAND : To the country through the House now. And later on, when the Bill comes back, they should not also prejudice the issue. When the Bill comes, Sir, we will have plenty of time to pass suitable legislation. The Women's Associations have also expressed that opinion.

SHRI B. GUPTA : Mr. Deputy Chairman, Sir, personal laws of our land very badly need very drastic reforms. Sir, in many cases the existing laws have been found to be out of tune with our times. They are not in keeping with the temper of a democratic society. Such laws have got to be changed. We do not disregard the sentiments of the people. We respect all their sentiments including religious sentiments. But, at the same time, we should be concerned with the social emancipation of our people, especially, women. Sir, when legislation is taken in the direction of bringing about the emancipation of women, it is welcome. Even if it is halting, even if it is hesitant or even if there is lacuna, we welcome such measures, because we know that we have to move in that direction. Therefore, this particular measure which has been brought before us

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 commends acceptance. It is no use making negative criticisms of every sort. Let us be clear whether we want social reforms of this kind or not. If we do want, then, Sir, here is a measure. You may have complaints against it. There may be some drawbacks here, there may be some lacunae there. But they can be removed. We are not living in the days of our ancient law-givers. We are considering this matter in a different context of society today. We have outlived those days. Now, we look forward ; we want to change the laws. Sir, men make the laws and men also change the laws. There is nothing sacrosanct about that. We are not living in the age of Manu or Yagnavalkya. We are living in different days. We have left those days far behind us. It is not disrespect to the ancient law-givers that we are proposing bringing changes by means of some measure. We are only carrying forward our noble heritage. Sir, those who try to prevent such measures in the name of the ancient law-givers by quoting verses from textbooks, are not really faithful to that heritage. We are a civilized people. Despite our trials and tribulations our civilization has proved that its progress cannot be checked. Let us therefore go forward with courage and conviction.

Our complaint against Government has been that it has not been bold enough to introduce such measures. Today we only find proposals for such piecemeal legislation when what we want is reform of the entire personal laws of the country. Sir, the Hindu Code Bill has been shelved for many years. At the last session, we were given to understand that it might come up very soon. But we feel that it is not going to come at all. Piecemeal measures may come. Something is wrong somewhere. Why is it that the Hindu Code measure is not there ? Why is it that the Hindu Code Bill is not there ? Why is it that the recommendations of the Rau Committee are not implemented with such amendments

as are necessary to make it more progressive and acceptable to the people? We know that men in high places are opposed to the reformation of personal laws. They are tied to the past in such a deplorable manner that they do not look forward to the future. They do not see the signs on the wall. Sir, the hon. the Law Minister is a weak person. He is full of prejudices himself. I shall refer to a statement which he made in the past when he was a Judge of the Calcutta High Court. I do not expect that after his accession to Ministerial position he has totally outlived his High Court past. That is why he does not propose to go forward with speed and courage. There was the Draft Hindu Code and a memorandum on that was submitted by some Judges of the Calcutta High Court, namely, R. C. Mitter; B. K. Mukherjee; C. C. Biswas—he is here in New Delhi as the Law Minister—and A. N. Sen. Now, Sir, the memorandum is dated 12th June 1945. I will just refer your attention to some of the.....

MR. DEPUTY CHAIRMAN :
 Mr. Gupta, you can reserve all these for the next stage.

SHRI B. GUPTA : No, Sir, I shall just finish. Let this not be taken lightly.

SHRI ABDUL RAZAK : This Bill is not introduced to this House by the hon. the Law Minister in his personal capacity. He has done it because he has been asked to do so.

SHRI B. GUPTA : That is not the point at all here. When I was listening to the hon. the Law Minister, I felt that he was not talking with a reformer's zeal. I felt that the conviction was not there and I know why it is so. I shall read what he said along with the other signatories.

"At the outset, we must express our serious doubts as to the wisdom, necessity or feasibility of enacting a comprehensive Code of Hindu Law."

MR. DEPUTY CHAIRMAN :
 When was that ?

SHRI B. GUPTA : Seven years ago. Even five years is enough in the life of a man. I shall be glad if the hon. Minister does not still hold those views.

SHRI C. C. BISWAS : I stand by that opinion.

MR. DEPUTY CHAIRMAN : Please address the Chair.

SHRI B. GUPTA : Yes Sir.

SHRI T. S. PATTABIRAMAN (Madras) : Are you discussing the person or the Bill ?

SHRI H. N. KUNZRU : Had he been allowed to go on, he could have covered some ground.

MR. DEPUTY CHAIRMAN : Please go on.

SHRI B. GUPTA : That is one reason Sir. Not that I am saying these to deride him. Those were the recommendations of the Calcutta High Court Judges, of whom our present hon. Law Member was one. That is the position. But the point anyhow is that he likes piecemeal legislation, because he had earlier stated that the piecemeal approach was the right approach. He referred to "unfounded prejudice against" that piecemeal legislation. That is exactly why we are here, presented with this piecemeal legislation, instead of a Hindu Code Bill. That has been the demand of our people, and of women in particular. I am glad, Sir, that he also mentioned monogamy in connection with this Bill. It is because of the men in power ; they do not want to go ahead. They are eloquent without having a strong conviction. They do not have the courage of conviction to sponsor a bold measure. I want to say, if you go on that way, by piecemeal legislation, you will be up against sniping. You should bring in a democratic, comprehensive measure, in all its aspects, a law that will be full of life, that will be beautiful, that will be creative, that will be progressive. Then, you will have created the ground for rallying the people of the land

behind it.

SHRI C. C. BISWAS : In 4½ years we have not been able to do that.

SHRI C. G. K. REDDY : That is because the Government had not the courage.

SHRI B. GUPTA : That is why I say, your approach, this piecemeal approach is wrong. As I said, I am not against this Bill, because we are determined to change the existing law. The people in opposition to this Bill are the vested interests, landlords and big capitalists, and some of their nominees. But why are we listening to them ? Why ask them ? In a matter like this, why ask them whether it is possible to introduce broad-based reforms ? Today, you have to consider the emancipation, not only of our women but also of the other sections of the people, in so far as they are tied to reactionary laws. Many points have been raised Sir, I know. I know the passage of the Bill will not be smooth. Still I wish the hon. Minister, who spoke, had done his job more vigorously, so that we could all feel that Government is minded to pass this Bill through.

MR. DEPUTY CHAIRMAN : Please speak on the Bill. You are going at random. What is this ?

SHRI B. GUPTA : Frankly Sir, the Bill is under consideration. It is going for circulation. If you want Sir, I shall limit the scope of my say. But I do not appreciate the ruling of the Chair. Sir, the Bill, as I had said is generally acceptable. We want our women, emancipated, we want they should be given the fullest rights. When a measure of this sort comes, an argument is made out that it will break homes, it will break our family lives. The argument is raised even from this side of the House. I think such arguments are totally untenable. After all, Sir, there are countless cases where family life is ruined under the existing laws. We should welcome bold measures which will remove the obstacles in the way of the social emancipation of women. We should have such bold reforms. Let us not be retrograde. Why not recognise the

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full rights for this section of society? Why not codify it as it had been promised? The right of divorce on justifiable grounds should be recognised as very legitimate. After all married life is not always a happy one. We do not fully know the unaccountable sufferings and humiliations, women have to suffer under retrograde laws. It is no use saying that if you introduce divorce, it will be doing something wrong. If monogamy has become the settled law in the land, you must recognise the right of divorce also. That right must be recognised.

PRINCIPAL DEVAPRASAD GHOSH : What about the Muslims?

SHRI B. GUPTA : My hon. friend asks, "What about the Muslims?" I have said, the personal laws of all communities should be brought into tune with the times. I am not discriminating between communities and communities. If the Muslims have a law which is wrong, that is no reason why we should also be in the wrong. If you are in the wrong path, get away from there and call upon the other communities also to come to the right path. It is no use trying to raise the question of Muslims here.

SHRI B. B. SHARMA (Uttar Pradesh) : To what community does he belong?

SHRI B. RATH : Hindu.

SHRI B. GUPTA : Now, I will come to the provisions of this Bill.

MR. DEPUTY CHAIRMAN : You need not go into the details of this Bill.

SHRI B. GUPTA : I don't Sir. I only want to touch on the principle of some of the provisions contained in this Bill. I am not a lawyer like the hon. Minister.

SHRI C. C. BISWAS : You are a much bigger lawyer.

SHRI B. GUPTA : Sir, I just want to touch on the general provisions and

one thing that struck me very much is here in clause 15 of the Bill where it is stated :

"Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage."

And then certain grounds have been laid down here for effecting a divorce. But it is stated that before this period of three years is over, no petition shall be entertained by a court of law. This, I think, is inconsistent with the spirit of other provisions. If you admit divorce on valid grounds, any one of those grounds might operate even from the day of the marriage. In that case why do you condemn the party to wait for three years? The husband may be a lunatic, for instance. In that case the wife has to live for three years before she can get a petition accepted by a court. The ground for valid divorce may be found immediately after the marriage.

SHRI C. C. BISWAS : Lunacy is not a ground for divorce.

SHRI B. GUPTA : You have of course stated this in the clause:

"Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before three years have elapsed....."

That saving clause is there. I am not ignoring that. But in our society where many marriages are settled marriages, where the parties do not generally get acquainted with each other before the marriage—some do,—but that is in higher society, not among the general population—where marriages are settled and they are settled often by the parents of the bridegroom and the bride, the marriage is not always a happy one. That being the case, why should there be this time limit of three years? That is repugnant to the spirit of the law. Therefore, this provision should be changed. How it is to be changed, I cannot suggest

off-hand. I know of at least one case and that is why I am asking you to do this. That was a case—a case of settled marriage—it was found immediately after marriage that the husband was a debauchee qualifying himself for a divorce on all the grounds that are stated here in the Bill. But nothing could be done by the girl. She had to get herself converted into Muslim religion and through that indirect process got a divorce. If you accept therefore, the right to divorce, you should not have this repugnant provision. Therefore, I say a little change has to be brought about in this respect.

Then as regards maintenance and all that, I feel these provisions have to be gone into with much more care than appears to have been done. In our society where women do not earn as in other countries, it is very important that very liberal provisions should be there. As it is, the provision in this measure is not very satisfactory.

Then there is the question of the right to children. That aspect of the subject has not been touched properly, though this is a very vital point in the context of our society. I think the mother should have the right to keep the child until a certain age—at this stage, I cannot give the definite age—when the child should be in a position to express a definite wish—I do not mean a judgment—as to with whom it wants to live.

AN HON. MEMBER: What happens in the case of a divorce that is pronounced against the wife?

SHRI B. GUPTA: But here it is the relation of the child with its mother. That is not disturbed. It is only the relationship of the husband and wife that has been disturbed by the divorce. So till the child grows to an age of nine or ten—I cannot give the exact age—the child should be left in the custody of the mother. Otherwise such sad and brutalising scenes would happen when the child is taken away from its mother and.....

SHRI C. C. BISWAS : See clause 26 of the Bill.

SHRI B. GUPTA: But I say a separate provision should be made for the sake of the child. I will not go into the details here. I would now add that in our society where the majority of the population live in the country, we should provide a procedure which is easily accessible and available to the people. It is impossible for a peasant woman to go to a district court. Therefore it is necessary to make arrangements in such a manner that these arrangements become really, in actual practice, available to the parties desiring a divorce or judicial separation under this law.

There are many other minor points on which I need not dwell at this stage. All I wish to add is that this measure has to be popularised among the public. It is no use just sending it out for circulation for getting public opinion. It is the duty of the party in power to develop the language which will enable it to explain to the people this provision of this measure. Here is a measure on which you can get the co-operation of all the progressive minded people in the country. Still I find there is a certain degree of aversion on the part of the hon. Minister to discuss this measure with the women's organisations in the country. I think such an outlook should be given up. This should be discussed with the women's organisations, indeed with all the progressive organisations in the country. Their advice would be fruitful and useful in such matters. This is not a Preventive Detention Bill. It is a measure which will be opposed even from the high ranks of the Congress.

MR. DEPUTY CHAIRMAN : Mr. Gupta I am afraid, you are again going off the subject. You have already spoken for forty minutes and at this rate we may have to sit till ten o'clock tonight.

SHRI B. GUPTA : Very well, Sir. I do not know how the Government proposes to circulate this measure. I have to suggest one thing.that it should be circulated as widely as possible. All progressive

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organisations should be taken into confidence in this matter and Committees should be set up to popularise this.

SHRI C. C. BISWAS: I may explain that although it will be circulated to certain individuals and certain organisations, there is nothing to prevent anyone in the Indian Union from submitting his views and those views will be considered along with those which are formally sought.

SHRI B. GUPTA : I get what the hon. Minister wants to say, but it is not my point that you are opposing their giving opinions; the question is that you must take the initiative in getting them because it is you who are sponsoring the Bill.

SHRI C. C. BISWAS : It is not possible to circularise it to millions.

SHRI B. GUPTA : I am speaking from experience of the other Bill that has gone out. We live among the people and we know how it is circulated. Therefore, I would suggest—and I would warn the Government—that it must, on no account, pay any heed to the propaganda of the reactionary elements.

In this list you find that in Bengal the Hindu Code Bill was opposed by some, the names are there, the Maharani Natore, Lady Ranu Mukerjee,.....

SHRI C. C. BISWAS : Sir, what is the use of referring to the large literature giving opinions of all shades? There is no other measure for which opinions were so widely sought and obtained; the Committee toured round the whole country and examined witnesses and all that is on record.

SHRI C. G. K. REDDY : Why send it for circulation ?

SHRI B. GUPTA : The hon. Minister may treat the opinions just as he likes but, it is for me to tell him how he should set about this business.

SHRI C. C. BISWAS : The main object of going in for circulation is, Sir, that the Part B States, had not been consulted at the previous stage. If ~~there~~

was no question of Part B States, there should be no occasion for circulation. The main reason is that the Part B States had not been consulted before.

SHRI B. GUPTA : Unfortunately, when I talk about public co-operation, that seems to be outside the ken of certain Ministers. When I say public co-operation, I have certain other things in mind; it is not this State or that, and States are political words. In West Bengal, it is Dr. B. C. Roy.....

SHRI C. C. BISWAS : I object to this insinuation. The hon. Member thinks that because he belongs to a certain Party he can probably.....

MR. DEPUTY CHAIRMAN : The Bill itself states that anybody can offer his opinion. All these remarks are irrelevant.

SHRI B. GUPTA : It is true, now, I am looking.....

SHRI B. K. MUKERJEE : On a point of information, Sir, may I know whether the hon. Member who is speaking now is supporting the Bill or opposing it ?

MR. DEPUTY CHAIRMAN : Order, order.

SHRI B. GUPTA : If all my remarks have proved beyond his comprehension, I cannot impregnate that mind. I am speaking in support. I am speaking in very clear English language.

MR. DEPUTY CHAIRMAN : Please wind up. You have already taken 45 minutes.

SHRI B. GUPTA : If you mince matters in such things, it is difficult to speak. Even so, I will say that it is a question of making arrangements; it is a question of setting up the organisation and it is a question of taking initiative. That is what I am saying. I am not accusing him. I am making certain suggestions as to how this measure will have to be piloted against opposition from certain sections at the top in this country. It is my duty to tell him when he sponsors this Bill that

there are certain ways in which you should set about the business. That is all I wanted to say. I wish this measure every success and I hope the lacunae in this will be removed, I hope, in consultation with the progressive people of the country; such changes will be made as will make it much more agreeable, much more progressive than what it is today and I also hope the hon. Members who, in their confused state of mind, do not understand as to whether I am supporting or opposing, will read it carefully and find themselves in a mental frame when they can also support this measure.

MR. DEPUTY CHAIRMAN: Dr. Kunzru.

SHRI V. S. SARWATE : One minute before he begins. I have a right to speak, and.....

MR. DEPUTY CHAIRMAN : I will call you later.

SHRI H. N. KUNZRU : If Mr. Sarwate wants to speak first, I have no objection but it depends upon you, Sir.

SHRI B. K. MUKERJEE : So long all these speeches are made in support of the motion. Nobody has yet been allowed to oppose the motion. Somebody may be allowed to oppose it.

SHRI C. G. K. REDDY : That means that there is nobody to oppose it.

(Interruption.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI H. N. KUNZRU: May I respectfully suggest to you, Sir, that perhaps the House will be better placed if Mr. Sarwate is allowed to speak first; if he holds conservative opinions and expresses them, we shall be in a better position to know what can be said against the Bill and I think I shall be able to speak profitably at that stage; but, I am entirely in your hands. My respectful suggestion, however, is that Mr. Sarwate might be allowed to place his opinions before the House.

MR. DEPUTY CHAIRMAN: Mr. Sarwate, you can speak.

SHRI V. S. SARWATE : I am very thankful to Panditji. I do not know what he meant by conservative views. Probably he meant that.....

MR. DEPUTY CHAIRMAN: You may go on.

SHRI V. S. SARWATE : But, all the same, I am thankful to him for his courtesy or whatever it may be. Now, I welcome the Bill. That should show my attitude towards the Bill. Secondly, I have suggested that the period for eliciting public opinion may be long because the Rau Committee, when it was appointed, was meant only for British India and,.....

MR. DEPUTY CHAIRMAN: Your amendment has been accepted, Mr. Sarwate. You need not dilate on that point. Come to the Bill direct.

SHRI V. S. SARWATE : Therefore, I am making the suggestion to the mover. The earlier Committee did not take any opinions from what were called Indian States and he should make a particular move, and make special effort to get opinions from that part. As one of the lady speakers thought—and I may disappoint Pandit Kunzru in that respect—it is premature at this stage to consider or make any comments on what is included or the contents of the Bill. The contents of the Bill can very well and with advantage, and better advantage, be discussed when the Bill is at a later stage before the House.

Thirdly, I want to make a suggestion to the mover that in this Bill, the procedure which he has adopted seems to be this. As regards marriages, he has accepted the customs wholesale and even if the marriage is within the prohibited relationship, he has allowed and accepted it if it be according to the manner in which it may be solemnised and also customary. But, as regards that part of the Bill which deals with divorce, he has not given any room for custom. He has made no provision for custom. Every person has to go to court.

HON. MEMBERS: No, no.

SHRI C. G. K. REDDY: There is nothing but customs in the Bill.

SHRI V. S. SARWATE: I would be benefited if I am given the number.

SHRI C. C. BISWAS : The hon. Member may look at clause 29, sub-clause 2. "Nothing contained in this Act shall be deemed to affect any right recognised by customs or conferred by any special enactment to obtain the termination of a Hindu marriage, whether solemnized before or after the commencement of this Act."

SHRI V. S. SARWATE: It only gives the right, not the manner of having remedy. The remedy is to go to court.

SHRI C. C. BISWAS : "Any recognised custom" is there; it is quite comprehensive.

SHRI V. S. SARWATE : I would, of course, defer to his better judgement, but, I think that there will be no remedy; the parties concerned will have to go to the court.

That does not mean that he would not have to undergo the procedure which is laid down in this respect. I would like to point out to him that last time the mover of the Bill had to make certain amendments at a later stage of the Bill because he had not taken into consideration certain marriages performed according to customs, in certain parts of India, for instance marumakattayam and aliyasanthanam. These two kinds of marriages he introduced into the Bill at a later stage. It is the duty of the Government to make it clear to the people that such and such customs are recognised as reasonable and that they would be accepted by courts, and that such and such customs are not so recognised and would not be accepted by courts. The hon. Minister should take this opportunity to invite opinions from all the Governments regarding the customs relating to marriage and divorce prevalent in their respective areas and which have been so far brought on record. At the time when he introduces the

Bill next time, he should let the people know those customs, because otherwise a lot of money is wasted and a long time is taken in courts in having customs settled or recognised as reasonable and therefore valid. Therefore, a record of all the customs which the Government thinks reasonable should be attempted. That would be very beneficial.

SHRI H. N. KUNZRU : Mr. Deputy Chairman, it is a matter of great regret that Government have placed before us a Bill dealing only with one part of the Hindu law. The Hindu Code as a whole has been under discussion for many years. We thought, therefore, that Government would place before us a comprehensive measure dealing with the Hindu law in all its aspects so that the inter-relation of the various parts might be clear to us. The Statement of Objects and Reasons says:

"As stated earlier by Government, the Code is now being split up into separate parts for the purpose of facilitating discussion and passage in Parliament, and the present Bill is the first of a series of such parts and deals with marriage and divorce."

If Government propose to deal with other aspects of the Hindu law also, why did they not take the trouble to make up their minds about them and enable us to know, even if we were to consider only one part of that law, what their opinions were? We thought at one time that their opinions were embodied in the Hindu Code Bill that was placed before the Provisional Parliament. If their views have changed, it should have been easy for them to indicate what the changes were. They were not called upon to frame an entirely new measure or to deal with a matter which had never been dealt with before. This matter has been under consideration for many years; there is no aspect of it that has not been considered by Government. All that Government had to do, therefore, was to tell us what changes they proposed to introduce in the Hindu Code Bill in order to bring it into conformity with their present opinions.

It is said in the passage that I have read out to you from the Statement of

Objects and Reasons that the Code has been split up into separate parts in order to facilitate the discussion and passage of each part in Parliament. Government could have adopted this procedure, that is, could have asked Parliament to consider each part separately, and at the same time they could have placed a comprehensive measure before us. The framing of a comprehensive measure would not have debarred them from asking Parliament to consider it piecemeal. The whole of it need not have been introduced; only parts of it could have been introduced separately. But we are entitled to know what the views of Government on the subject as a whole are. My hon. friend the Law Minister is a member of the Cabinet, and I dare say that before the present measure was put forward Government did consider the various parts of the Hindu Code Bill and outlined their opinions with regard to them. The least, therefore, that we can expect him to do now is to tell us what the views of Government generally are in regard to the other aspects of the Hindu Code Bill.

SHRI C. C. BISWAS : May I remind my hon. friend that the President's Address announced that this Bill would be introduced in parts, and that very language has been repeated in the Statement of Objects and Reasons, and so the question of adopting the procedure suggested does not arise?

SHRI H. N. KUNZRU : I am not holding the Law Minister responsible for the procedure that has been adopted. I can assure him that I lay no blame in this connection on him personally. I am referring only to the deficiencies of Government. My complaint is that Government have not placed the whole measure before us, and I maintain that we would have been in a better position to consider the parts separately had a measure making the inter-relationship of the various aspects of the Hindu law been clear before us. I only asked him, as he is expected to be familiar with the opinions of Government on the subject, at least to tell us how the opinion of Government has changed in

regard to the other parts of the Hindu Code Bill. We shall then be in a better position to make up our minds with regard to the adequacy or inadequacy of the part that we are asked to consider now.

The Statement of Objects and Reasons tells us that the Hindu Code Bill has been considerably revised, and my hon. friend the Law Minister was good enough to take the trouble to explain the more important respects in which changes have been made in the Bill. One significant change is the omission of the provisions relating to civil marriages. The justification that was put forward by the Law Minister for this omission was that the Special Marriage Bill introduced by him in the last session of this House dealt with that subject.

I do not think, Sir, that that is an adequate answer. So long as civil marriage was included in the Hindu Code Bill, Hindus could resort to it without giving up certain rights. For instance, they could go through the civil form of marriage and yet not give up the right to adoption or the right to be governed by Hindu law. But if Hindus are to marry under the Special Marriage law, they will have to give up both these rights. I mean, there may be other respects also in which their position will be adversely affected. Now, I see no reason, Sir, why a Hindu who prefers a civil marriage to a *dharma* marriage, should be compelled merely because of that, to forego the rights that he is entitled to enjoy as a Hindu. I know, Sir, that the Special Marriage law does not deal with marriages amongst Hindus only. I am glad that its scope is wider. But my criticism against the Bill, so far as it applies to the Hindus, is not vitiated by this fact. And I should like the hon. the Law Minister to explain to us on what ground he justifies the omission of all provisions relating to civil marriages from the Bill. I can only find one reason for it, Sir, and that is the desire to consult orthodox opinion to the uttermost. Now, Sir, the orthodox Hindus would not have been compelled by the Hindu Code Bill, had it been ac-

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 accepted by the Provisional Parliament, to go in for civil marriages. It would be open to such of them, as did not approve of civil marriages, to have their marriages or the marriages of their children solemnized in accordance with the Hindu religious rites and customs. The inclusion of the provisions relating to civil marriage would only have enabled the more progressive Hindus to adopt a form of marriage which they thought was more in consonance with the modern society, without cutting themselves off, so to say, from Hindu religion and in a large measure from Hindu society also. I think, Sir, that the Government are not justified in penalising the progressive Hindus in the way that they have done. I, perhaps, Sir, am doing no injustice to the Law Minister and I shall be doing no injustice to the Law Minister, if I say that my suspicion is that his influence in this matter has been thrown on the side of orthodoxy and against progressive Hindu opinion.

I shall now, Sir, deal with such of the provisions of the Bill as are necessary for us to consider now in order to understand its scope and its effect on the children of marriages that are dissolved. Now, Sir, clause 2 of this Bill relates to its application to various categories of persons. One of these categories consists of persons who are converts or re-converts to the Hindu religion. I compared this clause of the Bill, Sir, with the same clause of the Hindu Code Bill and I found that the sub-clause relating to converts in clause 2 of the Hindu Code Bill referred not merely to converts to the Hindu religion, but also to the converts to the Buddhist, Jain or Sikh religion. Now, I should like to know, Sir, why the application of the Act has been narrowed down by the omission of all references to converts to Buddhism, Jainism or Sikhism.

SHRI B. K. P. SINHA : It does not exclude that. Sub-clause (2) of clause 2 makes it clear.

SHRI H. N. KUNZRU : That reads as follows:

"The expression 'Hindu' in any portion of this Act shall be construed as if it included

a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in sub-section (1)."

I believe this Bill too was drafted on the same lines. I am no lawyer, Sir, but I am only asking for a clarification on one point. I will ask the House to refer to sub-clause (3) of clause 2 of the Hindu Code Bill. It runs as follows:

"The expression 'Hindu' in any portion of this Code shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, governed by the provisions of this Code."

And yet clause 2 of the Bill referred not merely to converts to Hinduism, but also to converts to Buddhism, Jainism or Sikhism. That is why I have raised this issue. I have read this Bill carefully and I had not forgotten the provisions of sub-clause (2) of clause 2 of the Bill, when I asked for a clarification in regard to the reference to converts to the Hindu religion only, in the Bill.

I shall now refer, Sir, to clause 17 of the Bill before us and as has been explained by the Law Minister, Sir, this clause provides where a marriage is declared null and void, the status of the children of that marriage will not be allowed to be prejudiced, if the marriage was contracted in good faith. I asked him why a similar provision had not been made in regard to the issue of marriages that had been dissolved by a court and his reply was that while in the former case, the marriages would have been void *ab initio*, in the second case it was not so and the issue of the marriages in the second category would, therefore, not be prejudiced in any way by the dissolution of the marriages. Now, here, I ask my hon. friend the Law Minister and the House to refer to the provisions of the Hindu Code. If he will turn to clause 38, he will find that it deals with not merely dissolution of a marriage or divorces, but also with nullities.

My hon. friend said that the Bill made no distinction between the different kinds of marriages. I do not know whether he is right from the

legal point of view, but I have gone through the various provisions of the Bill and I find that the matters that are described by the words nullity, dissolution and divorce have been dealt with in separate clauses of the Hindu Code Bill. Yet, clause 38 after making provision with regard to the status of children of marriages declared to be null and void in certain circumstances, goes on to deal with children of marriages that are annulled by a decree of dissolution or a decree of divorce. Sub-clause 2 of clause 38 of the Hindu Code Bill which deals with the matter runs as follows:

"Where a marriage is annulled by a decree of dissolution or a decree of divorce, the parties shall cease to be related to each other as husband and wife from the date of the decree and any children begotten of the marriage shall in all respects be deemed to be and always to have been the legitimate children of their parents and their names shall be specified in the decree."

I do not know, Sir, whether the present Law Minister regards this as superfluous, because the previous Law Minister thought that this was either necessary or desirable.

SHRI C. C. BISWAS : I quoted from the report of the Select Committee, and that is what they thought.

"We have not thought it advisable to make any sharp distinction between nullity of marriage and dissolution of marriage."

SHRI H. N. KUNZRU : I am more concerned in this matter with the provisions of the Bill than with the report of the Select Committee. I must say this to prevent any confusion that the clauses that I have referred to are the clauses that the Government wanted to introduce and not as amendments to the clauses approved by the Select Committee. They were never moved actually.

SHRI C. C. BISWAS : Therefore I did not refer to it. I only referred to the Bill as reported by the Select Committee.

SHRI H. N. KUNZRU : My hon. friend may have referred to the Bill as reported by the Select Committee. He has nevertheless to deal with the points

raised by me. The fact that he referred only to the Bill as reported by the Select Committee does not enable me to know the reasons for the omission of any provision with regard to the settlement of the status of marriage annulled by a decree of dissolution or a decree of divorce. If the Law Ministry found it necessary or desirable to insert in the Bill the provision that I have just read out, why has the Law Ministry now found it desirable to omit it from the new Bill that has been placed before us?

There is only one other point of a general character which I should like to refer to, and this relates to the remarriage of divorced persons which is dealt with in clause 16 of the Bill. This clause permits of the remarriage of divorced persons only if one year has elapsed after the divorce but not sooner. Sir, why has this been done? I know, Sir, that in certain religions, for instance in the Hindu and Muslim religions, a woman has to wait for a certain period before she can remarry, but there are certain good reasons for allowing a divorced woman to remarry earlier. It is quite possible that before a divorce was obtained, a judicial separation took place; they were judicially separated, because the charge against the woman was that of adultery. There may not have been any reconciliation after the judicial separation between the husband and the wife, and the husband may have waited for two years more for applying for a decree of divorce. If the court grants a decree of divorce, I think it is desirable to allow the woman to remarry as quickly as possible. Whatever her conduct or the conduct of the other party, there is no reason why you should visit the sins of the parents on the heads of the children. It may be said that, if this leniency is shown, morals would be loosened. I do not think, Sir, that the change I am asking for would have any such effect. Everybody knows that society can never view with favour lapses from its moral code. Before anybody can take advantage of the provisions of this Bill relating to divorce, he will be subjected to social opprobrium for a pretty long time in cases of

[Shri H. N. Kunzru.]
the kind that I have referred to. We need have no fears that, if we omit the restriction that I have referred to, a restriction which, so far as I remember, found no place in the Hindu Code Bill, or at any rate in those provisions that the Government wanted to introduce as amendments to the Bill, any harm will come. I see no reason why this restriction should be maintained here.

There are other aspects of the Bill that deserve consideration but I do not think that I shall be justified in going into any of them at the present stage. I have dealt with only such aspects of the Bill as are of a general character and needed immediate consideration.

In the end, before I sit down, I wish to say that although such changes as have been made in the Bill have been made with the object of recommending it to orthodox opinion—anybody who reads the Bill will see how much trouble has been taken to bring it into line with Hindu religious sentiment—yet I find that.....

SHRI M. L. PURI (Punjab) :
Where is the harm?

SHRI H. N. KUNZRU : Had I said that it was undesirable, certainly I would have been open to criticism

But as I never said that this criticism, to say the least, is premature. I was saying that a great deal of trouble had been taken. It is evident from a perusal of the Bill that Government have taken a good deal of trouble to bring it into conformity with the Hindu religion and sentiment and yet I find that in most of the essential matters, i.e., in respect of essential matters, except those that I have referred to, there is not much difference between this Bill and Dr. Ambedkar's Bill. Perhaps to be correct I should refer also to one difference between this Bill and the Hindu Code Bill and that is that while the Hindu Code Bill would not have recognized different interpretations or customs, this Bill explicitly allows the customs that have at present the force of law both

in respect of marriage and of divorce to remain operative. The main principles underlying the Hindu Code Bill were that monogamy should be enforced and that unhappy couples should not be deemed to lead a life of misery. They should not be compelled to go through all kinds of sufferings throughout their lives and those principles have been maintained in this Bill. This Bill seeks to establish monogamy and to permit the termination of marriages in certain well-defined cases. I welcome it for the progress that this Bill makes in these respects. It is most desirable in view of the changes that are taking place in the Hindu society and in view of the known facts with regard to the Hindu marriages that the present law and custom should be liberalised. We should, when we are trying to base the society on justice, change our marriage laws also in such a way as to bring them into conformity with our general conceptions regarding the basis on which modern society should be established. This is not to say, however, that I approve of the Bill in all its features. I have indicated some provisions of the Bill which require clarification or with which I don't agree and I hope that the Law Minister will be good enough to remove my doubts or to explain why certain provisions that seem undesirable should be retained.

SHRI B. K. MUKERJEE : Sir, I stand to oppose the Motion before the House, viz., the Motion to circulate the Hindu Marriage and Divorce Bill for eliciting public opinion. While I oppose the Motion, I don't mean to get a chance only to speak on this Bill. Some of the Members who spoke in favour of the Motion stated that the discussion at this stage is unnecessary but as I feel really that the Motion is unnecessary, I stand to oppose this Motion. The Motion for circulating the Bill for public opinion is not necessary at this stage as one of the Members who spoke before me stated that the Bill, though not in this form, but a Bill known as the Hindu Code Bill has been before the country for many many years and opinions on all

the clauses and all the issues in that Bill were sought and obtained and that went through the procedure of a Select Committee also. The Select Committee had enough opportunity to discuss and decide the course of action to be codified in the name of Hindu Code Bill.

Secondly, this Parliament is a representative gathering of the people of this country and when the Bill was agitating the country for so many years and we had the opinion of the people who could send their opinions—though I feel the masses had nothing to do with that circulation or the sending of any opinion—those people who will be vitally affected by this Code were not either consulted or had they any opportunity to send their views—and their representatives sitting here sending the Bill again for their consideration will automatically mean a vote of no-confidence on the representatives of those people to whom we want to send this Bill for their opinion because the Members of Parliament have got the sanction behind them to give their opinion on this Bill. Therefore I feel this Bill does not need at this stage to be circulated for eliciting public opinion.

Thirdly, I find that there are certain things in the drafting of the Bill also which created confusion. Some of the Members speaking before me stated that people in this House are confused over this matter. I think that though he might be a Barrister-at-Law, either he did not read all the provisions of this Bill or he could not know or find out the implications of this Bill which is apt to confuse the mind of the people. Now the first clause—short title and extent states :

“This Act may be called the Hindu Marriage and Divorce Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to Hindus domiciled in India who are outside India.”

(SHRI M. L. PURI in the Chair.)

Now, that means the people in Jammu and Kashmir will have nothing

to do with this Bill and even if they are to send an opinion, we are not going to accept that. But there are Hindus also domiciled in the State of Jammu and Kashmir and if this Bill does not apply to them and if their opinions are not sought and they are not honoured by the Committees of this House, what will happen to those members of the Hindu Community or the Sikh Community or the Buddhist Community residing in those States ? I feel that as it applies to the Hindus wherever they may be, this clause may be amended, or else this clause will create in the minds of the Hindus either domiciled in other parts of India or in the State of Jammu and Kashmir certain doubts. Therefore, this Bill unless the clause is amended, will create confusion in the minds of the people when it is circulated. If the Bill goes to the masses without this clause being amended, it will create great confusion in the minds of the Hindus.

SHRI C. G. K. REDDY : Which clause does the hon. Member mean ?

SHRI B. K. MUKERJEE : Clause 1, sub-clause (2). The Bill applies to all the Hindus “wherever they be”. But we do not want the people, particularly, the Hindus or Sikhs or Buddhists residing in the State of Kashmir and Jammu to send their opinion. We do not honour it if sent.

SHRI C. G. K. REDDY : This matter has been raised so many times. We have no jurisdiction over Jammu and Kashmir.

SHRI B. K. MUKERJEE : It should be amended in such a way that it should apply to all the Hindus here.

SHRI C. G. K. REDDY : But how can it be amended without amending the Constitution ?

SHRI B. K. MUKERJEE : Even if it is treated as a foreign country, the clause contains certain contradictions.

SHRI C. G. K. REDDY : It is not a foreign country.

SHRI B. K. MUKERJEE : There are other contradictions in the clause though I do not like to deal with the provisions of the Bill as we are not wanted to do so. But some of the provisions of the Bill are apt to create confusion in the minds of the people. So, I have to refer to this contradictory clause here. Hindu marriages, as a matter of fact, are not a legal contract. Hindu marriage is of the sacramental type and in that marriage—you will find that there are some clauses in the Bill—there is reference to Saptapadi in clause 7(2) where you take seven steps and make a promise before God that you have got to maintain and be loyal to each other. When you take some such oath or you take the promise before God, how, the legal question comes and it makes us get separated. But we cannot be morally separated. There is a moral obligation. There is a religious obligation. There are two obligations, moral and religious, to honour the promise. Therefore, there should be no law to interfere in the matter of the oath or of the promise made and if the Bill seeks to nullify these solemn promises, it will lead to corruption, and to all sorts of unhappiness in the society.

There is again another clause. When two parties were married before the commencement of this Act if they were married under the Hindu law, they can now go to the court for a divorce. The clause says, "desert without reasonable excuse". But I want to cite an example here. It will be relevant, no doubt, but it may not be palatable to the Members of the House. I think most of the Members are residing in flats here when they come to attend the sessions. But the flats are so small that most of the Members cannot bring their wives and stay alone there. Now, the wives ask for divorce.....

SHRI C. G. K. REDDY : What is this, Sir ? It is ridiculous.

SHRI T. S. PATTABIRAMAN : People must understand the clauses before they.....

SHRI B. K. MUKERJEE : That is why I said it is relevant, but it may not be palatable to the Members, because their wives may be going to the divorce courts. But it is a fact.

SHRI B. RATH : Sir, I submit that this statement that the Members' wives are going to the divorce courts...

THE VICE-CHAIRMAN : I hope not.

SHRI B. K. MUKERJEE : My next point is that this divorce may be made legal when the parties are married under any law. But this action, if it is necessary, we have got to take very cautiously and slowly.

Therefore, I have to oppose the Motion before this House for eliciting public opinion.

SHRI RAMA RAO : Mr. Vice-Chairman, Sir, I thank you very much for giving me this opportunity to speak. Generally, my habit is not to ask or to thank. I wait and take my chance. But as one interested in social reform more than in politics or even in his own profession of journalism, I should like to express my most profound convictions on this occasion. Sir, the remarks of hon. Members and especially those on the Congress Benches, who claim to be representatives of a progressive ideology.

AN HON. MEMBER: Not all of them.

SHRI RAMA RAO : Not all of them, I know. But the sort of interruptions that I hear from the Congress Benches makes it difficult for me to believe that this legislation will pass through without the help of the Opposition.

SHRI C. G. K. REDDY : You will get it.

SHRI RAMA RAO : I thank you very much.

Sir, the Prime Minister, on a previous occasion, staked his reputation, and probably, the existence of his Government on the issue of Hindu Code Reform. I would warn this House that much water has flowed down the Ganga since then, and that it should respond promptly, and see we adjust our thoughts and actions to the needs and requirements of the situation.

Sir, I do not believe for a moment that anybody who knows the high responsibility of this House for giving a lead to the country would be justified in opposing a discussion on this Bill right here and now. I am surprised to find that a distinguished lady Member has opposed discussion at this stage. A Bill of this moment and magnitude has been introduced for the first time in this House, and we shall have to say something about it.

DR. SHRIMATI SEETA PARMANAND : At the proper stage.

SHRI RAMA RAO : This is the proper stage. Dr. Kunzru whom we ever associate with correct thinking, was quite right in criticising that the Bill is not comprehensive enough. I am also of this view. But he ought to know, as a veteran politician and a seasoned legislator, the extraordinary difficulties of a party riven with differences on this matter.

What is the urgency of this legislation? The question has been asked. The answer is very simple. Only yesterday, Sir, we passed a resolution on the Planning Commission, that is, for a planned society. We have, therefore, to refashion the Hindu society according to the needs of the day, make it modern and up-to-date, out of the present ramshackle condition and make it a sound foundation of progress. That is the main reason, that is the democratic justification, for this legislation. Again, there are what used to be called the Indian States, now forming part of the Indian Union. Their people also are asking for reform. Also, we have

conflicting and contradictory decisions on Hindu law. Something positive, something uniform has therefore, got to be laid down.

Sir, we believe in strengthening the unity of India, and that would be possible to bring about—greater national unity—through the strengthening of the Hindu polity first. That means certain social and religious reforms. Mr. Panikkar, in his book “Survey of Indian History”, with his great historical scholarship, points out how the Hindu society has been held together firmly by the Dharma Shastras. These Dharma Shastras were legislated years and years ago. But today we want new, modernised Dharma Shastras. And we shall have them. The Parliament of India will do it. And it is supreme. The Constitution of India is wide enough for that purpose. The directive principles are there to help and guide. If you pitch the Hindu Code of today against the Constitution, so much the worse for the Hindu Code. Understand the responsibilities you have taken on yourselves by accepting this Constitution. It is a dynamic Constitution. It has explosive elements in it.

Sir, I am against circulation of a Bill of this kind, for, I know what is going to happen. I recall an incident in 1912 when the Basu Bill on Civil Marriage was being circulated. In my home town of Bapatla, a number of social reformers held a meeting and argued the case for the Bill. We thought everything was going off well, when suddenly a Shastri got up and shouted that the Shastras were against it, the Shastras said this and said that. In a few minutes not a man was present at the meeting. So there will be all sorts of bogus, artificial agitations against the present Bill also. You will be submerged under piles of telegrams and heaps of opposing resolutions. Government must not be frightened out of their determination to go on with the Bill. At this moment, the RSS is out for cow-

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shad agitation is on. We are now, by this move for circulation, putting a *danda* in the hands of the reactionary elements.

PRINCIPAL DEVAPRASAD GHOSH : How does the RSS come in?

SHRI RAMA RAO : I am developing my argument against circulation. Speaking by and large, I would say that it would be highly desirable for us not to bring into a modern legislation arguments based on ancient scriptures. I know they had once great potentialities; otherwise, the Hindu society would not have lasted so long. But it does not follow that I am going to wear the coat I wore ten years ago. While on this subject, I am reminded of what Shri S. Srinivasa Ayyangar, the eminent jurist said in Madras, years ago at a meeting of the Hindu Social Reform League. He said that our Dharma Shastras made it impossible for us to advance our social conditions, and therefore, we should avoid the scholastic approach and take our stand on reason and commonsense. If anyone thinks that because of this approach of mine I am not a Hindu he is very much mistaken. I am a Hindu, a protestant Hindu, a radical Hindu, a revolutionary Hindu. I am against the mugwumpish mentality and the anachronistic outlook.

Remarks have been made about the conflict between the special Marriage Bill now under circulation, and the present Bill. I think Dr. Kunzru made them. I respectfully agree with him. I would have no special Marriage Bill, because I am out to truncate the Hindu Law and fill it in as I please. We are speaking these days of human rights. We speak of the wretched condition of the Indians in South Africa and Kenya, and yet we forget that there are certain human rights which are due to our own people in this country. During one of our periodical agitations in support of the rights of the Indians in South Africa, Mahadev Govind Ranade gave a lecture in Poona in

which he sarcastically said : You go after such things. Rightly too, but you forget your own Harijans. Your own women. You look down on your lowliest and the lost. Think of them before you think of the Indians in South Africa. Yes, let us think of our own depressed classes and oppressed women. While on this subject, I am reminded of a scintillating sentence uttered in the classroom by one of my greatest teachers and one of the greatest social reformers of the country—the late Sir R. Venkataratnam Naidu : “One of the most glorious chapters of human history is the chapter of man’s outrageous treatment of woman”. I underline this idea because arguments have been advanced in support of the *status quo*. (*Time bell rings.*) Only a few minutes, Sir.

THE VICE-CHAIRMAN: All right, take a few minutes.

SHRI RAMA RAO: Sir, as I have already stated that the Bill is inevitable because the Hindu Law has already been sufficiently truncated and we must proceed further on that direction. The Bill is also politically logical. What is the main implication of the Constitution?—equality of man and woman. What is the purpose of the directive principles? It is the same. What was the purpose of the election manifesto of the Congress? It was the same. Eighty per cent. of the population of the country is Hindu. Eighty per cent. of the Members of the Parliament are Hindus. Can they not legislate for Hindus?

The Fundamental Rights are personal. I maintain marriage is purely personal. I can never get myself to believe that marriage is sacred or sacramental. If I find that I am not happy with her, I tell my wife, “I am unable to make you happy. Let us separate.” Or “You are unable to make me happy. Let us separate.” If there is marriage, there must be divorce. If there is a water main, there must be a drain. That is the sanitary process of life.

SHRI T. S. PATTABIRAMAN: But make it underground.

SHRI RAMA RAO : My friends there of the orthodox wing will do that.

Something has been said on the racial aspect of marriage, the religious and the ethical and all that. Years ago people lived in a particular set-up of society and for them certain institutions were found to be good, like polygamy, and polyandry. Today monogamy is the law of civilisation. Even polyandry may be necessary in Tibet today, and in that case, that society will have that institution. In our scriptures we are told of a Maharaja who had a lakh of wives and a crore of children.

AN HON. MEMBER : Where is that stated?

SHRI RAMA RAO : The Mahabharata says that and that is a scripture.

AN HON. MEMBER : That is not a scripture.

SHRI RAMA RAO : What? The Mahabharata is Panchama Veda. Are not the Vedas-scriptures?

AN HON. MEMBER : You do not know anything.

THE VICE-CHAIRMAN : Order, order. Do not talk among yourselves.

SHRI RAMA RAO : Much has been said about Hindu culture, about the Hindu culture being good, and the rest of the cultures being inferior. And that remark came from a person who calls himself an educationist. I can only say that he will ruin his students if he goes on in this manner. Let us not cultivate the mentality of insularity or Herronvolk. The moment we began to do it, we slipped down to destruction and dropped into stagnation. That is the reading of Indian history according to Mr. Panikkar whom I have already cited before. Let us be careful and get rid of the hangover of the past. "Punnya Bhumi" for India, "Deva Bhasha" for Sanskrit are wonderfully self-flattering; but remember Hitler also talked such things and we know where he went.

Mr. Vice-Chairman, I thank you very much for the indulgence you have shown me. I am afraid I have spoken rather strongly, but I have done so with the passionate convictions of a lifetime. Let me repeat. If the Hindu society does not modernise itself, the freedom we have got will be wasted and we shall be nowhere. We shall be destroyed. We shall sink back to the depths of slavery. And it would be the eternal disgrace of this Parliament if it does not modify the structure of the Hindu society, not piecemeal, but wholesale.

PRINCIPAL DEVAPRASAD GHOSH : May I just point out, Sir, that in my speech I never quoted any scriptures? It is generally the habit of the Devil to quote scriptures, and a lot of scriptures has been quoted from the other side.

SHRI T. S. PATTABIRAMAN : Sir, as expected, this measure has created a lot of controversy and gentlemen who oppose this measure have found comrades at arms with some on this side also. This is a sign of the great battles that are yet to be waged on the floor of this House. Therefore it is just proper that we should be equipped for it.

The motion made by the hon. Minister for Law is to be welcomed, though not with much warmth, but with some warmth, for I feel it has not gone far enough. After several hundred years of foreign domination in India, after the rule of the British and with so many conflicting rulings of different courts in this country, even today if there is opposition to a unified Hindu Code, does it show our progress or not? That is the doubt that has come into my mind. I feel the hon. Minister should not have waited so long for bringing this measure and I am rather surprised that even now it is going to be not passed, but being sent out for getting opinion, being circularised for eliciting public opinion. But have you not got the verdict of the people on this measure? In the last elections, what is the verdict that the people have given on this question? In the last elections, our

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beloved Prime Minister was also the President of the Indian National Congress and he stood from the Allahabad constituency where the slogan was raised, "If you care for the Hindu Code Bill, vote for the Congress candidate." There the so-called orthodox Hindus, all of them joined together and set up a Sadhu to oppose him and raised the slogan, "If you care for your culture, for Hinduism, vote against Nehru." And after all that the people gave their verdict, the verdict of the real masses of our people, that they wanted the Hindu Code Bill.

SHRI T. PANDE : Was not the election fought on the basis of the election manifesto ?

SHRI T. S. PATTABIRAMAN : My hon. friend talks about the elections being fought on the election manifesto. True, but our Prime Minister himself said at public meetings in no uncertain terms, "I stand by the Hindu Code Bill. If you are against the Hindu Code Bill you may vote against me."

Sir, I am sad that Government after getting this verdict of the people should still want this measure to be sent out for getting public opinion. Have we not waited long enough ?

SHRI C. C. BISWAS : Pandit Nehru is not only President of the Congress, but he presides over the Government.

SHRI T. S. PATTABIRAMAN : I welcome this giving of more time, in a way, for it gives a long rope for those persons who are opposed to it. But I feel that a Hindu Code is absolutely necessary, not only for the purpose of codifying the law but also for giving proper guidance to the people. Adjustments are necessary and nobody can say that Hinduism is incapable of growth or adjustment. Hinduism is a progressive religion. I completely dissociate myself from what was said by Mr. Rama Rao, for I believe Hinduism is one of the greatest of religions. Hinduism has survived and we have survived because of the capacity of

this religion to absorb progressive tendencies. Many religions have come and gone. There was Buddhism, there was Jainism; they came and went. There were the invasions. The Moslems invaded the country and devastated it. Christians invaded in their turn ; but Hinduism has survived all these trials and stood the test of time and survived through the ages because of this virtue of adaptability ; and that is the greatness of the Vedas, the greatness of the scriptures. It has the intrinsic capacity to adapt itself and to change, when change is necessary. And these are the changes that are being embodied in this measure. It has come to us in parts. My hon. friend Dr. Kunzru said that it should not have been brought in parts. May I also join my voice to his and also request the co-operation of all sections of the House and request that before 1953 is out, the whole Hindu Code Bill should find a place in our Statute Book ? It is enough if you give one whole year for those who want to oppose or discuss that Bill. If Government would give such an assurance that by the end of 1953 this Bill will be on the Statute Book, that would remove the lurking suspicions from the minds of all the progressive people in our country.

Today we have got a Bill which treats only about marriages. Many have referred to Yagnavalkya, to Kautilya's Artha Sastra, to Krishna and many other ancient texts. We also hear that in ancient days there were eight forms of marriages. Now we find only three systems of marriage in vogue, namely, the Brahma system, the Gandharva system and the Asura system of marriages. The Brahma marriage is marriage with the consent of all the persons concerned, the parents of the bride and bride-groom and the bride and bride-groom also. Gandharva system is by consent of the two parties only and the Asura one with nobody's approval. In this Bill we deal with the first two forms of marriage—the Brahma system or method and the Gandharva marriage. But this measure is not progressive enough.

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That is my complaint, for we must not only consolidate the Hindu law and make it available to the public but also move with the times. I am sorry to see that even today we are insisting on ceremonies and ceremonies. Sir, these ceremonies have been the bane of our society. These ceremonies are not essential. The essential thing, the main thing is the religious tie. Today, the Bill again emphasises the ceremonies. You may have gone through the necessary functions that are essential for a marriage but, unless the ceremonies are there, the marriage is not solemnized. So, I would appeal to the hon. Minister to consider whether ceremonies should be made absolutely necessary. The Gandharva system should be accepted. Sir, you must give opportunities for young men and women to get married and not send them into economic degradation. The peasantry has been ruined by the cost of the enormous ceremonies connected with the marriage. So, Sir, in order to save the people give them a new orientation, give them a new economic outlook. You must not make the rituals compulsory.

I have only two points and I will finish, Sir. The one welcome feature of the Bill is registration. It is very essential in a sense. In the rural side, I know that when maintenance has been claimed under section 480 of the Cr. P. C., the husband took the help of the villagers and no witness was forthcoming. Like that, many a woman had been ruined. If there is registration the man, whatever he may be, would not be able to leave the women in the lurch. The purpose of registration has been very well recognised but, it has not been made compulsory. I would request the authors of the Bill to make the Provincial Governments—it is the option of the Provincial Governments, but, it must not be left as an option of the Provincial Governments but should be made compulsory on behalf of the Provincial Governments—to make the registration so that at least for sometime they may be accustomed to get registered.

Sir, the last thing that I want to say is that this Bill weighs in the favour of women only ; for example, clauses 24 and 25. Sir, the authors of the Bill have thought that only women have been suffering and they only must be eligible. Today, Sir, with regard to alimony there are instances where rich girls have married poor husbands and they have been left in the lurch. I am not joking. It is a fact, Sir, that when you provide a law, when you provide certain facilities, you must provide for all. Clause 24 and 25 should be altered to make it possible for poor husbands who are left out, who are not supported, to get some money for their livelihood.

There was a complaint about clause 15. It is good that though we undertake new and progressive legislation, it must be in proper conditions. We have got very rich culture and heritage and our laws must be in a sense moulded. Marriage should not be considered merely as a contract but, also as a sacrament though it should not be made absolutely sacramental. Sir, for that, time must be given, opportunity must be given for the estranged husband and wife to reconcile.

On the whole, this Bill deserves not only our consideration for eliciting public opinion, Sir, it deserves immediate passing and I am sure, Sir, further obstacles will not be encountered. I am sure the Hindu Code Bill has been the grave of many Ministers and I do not wish that that will also be the fate of the Law Minister and he will be treated in the annals of history, legal history at least, of Hindu culture that he is the modern Yagnavalkya, of 1953 at least.

THE VICE-CHAIRMAN : Dr. Anup Singh.

DR. ANUP SINGH (Punjab) : Sir I would personally have welcomed a more comprehensive and integrated Bill and, I am one of those who were profoundly distressed when the Government did not show the courage to go forward and push the Hindu Code Bill. However, I cannot agree with the observation made by the hon.

[Dr. Anup Singh.] friend on this side when he said that people are clamouring for the Hindu Code Bill but the Government is reluctant. I am sure we all realise the furore that was created in the press, over the radio in various discussions. Although, as I said, I would have welcomed it, I cannot agree to the idea that there was not a very large volume of opposition.

DR. SHRIMATI SEETA PARMANAND : Very small opposition.

DR. ANUP SINGH : You may be reactionary but, you can also go too far and leave the public behind. I believe that a good deal of discussion would help and I believe that, barring a few exceptions here and there, we can make it that our public opinion, will be ready to accept it. Dr. Kunzru said that it is very difficult for us to discuss this Bill piece-meal. I am sure, I cannot agree with him. I think the present Bill stands on its own, it would have been perhaps better if it was related to other parts but, I think, it can be discussed on its own intrinsic merits.

Another point that I would like to make, Sir, is that I do not believe anything will be gained by circulating this Bill to the public. All of us here represent a certain section of the public from all over India. We have not thought it necessary to circulate other Bills. This Bill, as some Members have pointed, in some form or other, has been discussed in the country for the last 10, 11, 12 years. Almost everybody, by which I mean people who are politically or socially conscious, who read the newspapers, is fully acquainted with the substance of the Bill. Therefore, I believe, Sir, that nothing will be gained by circulating. It would be just prolonging this Bill. In my humble opinion, this Bill should have been passed here, Sir. A great deal has been said by some Members and I am sure it will be said that our great society is somehow so fundamentally different from other people. References have been made to America and Europe

and, of course, the implication in all these remarks being that we are, somehow, so peculiar. I am afraid that I cannot subscribe to that view. I recall that one of the worst and notorious blackmarketeers from Calcutta who made tons of money during the famine, the Bengal famine, happened to come to America and it was my unpleasant duty, given to me by the Ambassador, to introduce him to some people to help him make some business contacts. One day, I arranged a luncheon for him with few Senators and Members of the House of Representatives. This gentleman had the audacity to take up all their time during the lunch telling them that our civilisation was spiritual and theirs was materialistic. That sort of thing, I suggest, Sir, is nothing but self-righteousness, hypocrisy and, if I might use the term, unadulterated humbug. We have a great deal to learn from other people. I yield to nobody in being proud of the Indian culture ; we have thrown up some of the greatest men ; in our own days, we have produced Mahatma Gandhi. Anyone who has taken the trouble to find out what goes on in the rest of the world, anyone who has travelled, I think, will agree with me that we need surgical operations in many of our habits and institutions.

PRINCIPAL DEVAPRASAD GHOSH : We require to import Hollywood morality, I suppose, to correct ourselves ?

DR. ANUP SINGH : I have no use for Hollywood morality. I am painfully conscious of the sin that goes on right here in our own country. I believe

SHRI T. PANDE (Uttar Pradesh) : For operation, you must have good Doctors.

DR. ANUP SINGH : We are producing good Doctors. We are now sort of taking little homeopathic doses here and there. I think we can go much farther.

Lastly, Sir,—it is too late and I do not want to take any more time—if we

are not forward and if we try to isolate ourselves from the march of progressive general ideas in economics, politics and, may I say, in morality also, if we ~~do~~ not watch out, we will be somewhat in the position of a man who left his future behind.

THE VICE-CHAIRMAN : Mr. C. G. K. Reddy.

श्री टी० पांडे : सभापति जी, मैं एक निवेदन आपसे करना चाहता हूँ। जो लोग इस बिल के पक्ष में हैं, आम तौर से वही बोल रहे हैं। जो विपक्ष में बोलना चाहते हैं, उनको भी मौका देना चाहिये।

श्री सी० जी० के० रेड्डी : आपको कैसे पता लग जाता है? जब तक मैं न बोलूँ।

उपसभापति : आप विरोध में बोलना चाहते हैं ?

श्री टी० पांडे : जी हाँ।

*[SHRI T. PANDE : Mr. Chairman, I want to make a request to you. Generally only those who are in favour of the Bill are being permitted to speak. I submit to you that opportunity should also be given to those who want to speak against the Bill.]

SHRI C. G. K. REDDY : How do you come to know of this unless I have spoken ?

THE VICE-CHAIRMAN : Do you want to speak against the Bill?

SHRI T. PANDE : Yes, Sir.]

SHRI C. G. K. REDDY : Before I speak, how does he know ? I will finish. We know what he is going to say.

THE VICE-CHAIRMAN : Time is short, and I request all the speakers to be very brief. The hon. Member Shri Pande will get his chance. Mr. Reddy.

SHRI C. G. K. REDDY : After all, he can wind up the debate. And I hope that in winding up, he will not wind up this Bill.

Sir, I cannot as a matter of fact claim any profound knowledge either of Hindu society or of Hindu religion. But I believe that this Bill certainly is not meant for many of the hon. Gentlemen who are Members here. It is for people like us, the youth of the country ; it is to us that the Bill refers certainly not to those who are much married and whose grand children even are married. Therefore on that basis I think I can contribute something to this debate.

Sir, before I go on to my remarks, which will be as short as possible, I should like to express my great regret at the manner in which the hon. Minister who piloted this Bill initiated the debate. For a moment I thought that he was trying to shoot the Bill himself, because in one of his remarks I thought he was inviting opposition and perhaps sabotage to this Bill. He said, that they were introducing this legislation piecemeal because then they would be able to take the people with them, otherwise they might not be able to get it through. If that is not invitation for people to oppose it and throw the Bill out, I do not know what is. To say the least, it is most unwise for a Minister to say such things, and I hope that in his concluding remarks he will see to it that he corrects himself and definitely states on behalf of the Government that the Government stands by the Bill and that it will see that it is passed. That is the least that he can do, because otherwise those who are opposing this Bill are bound to take the cue from him and try and see that this Bill is thrown out. That is the least he owes us, to this House, to his Government, and to the progress of the movement which he also, I think, represents.

I may also refer incidentally, because I should like to develop my argument on that, to the rather ungallant

[Shri C. G. K. Reddy.]

remark which was passed by my hon. friend who is sitting next to me (Principal Devaprasad Ghosh). He referred to Dr. Ambedkar. He said that probably Dr. Ambedkar—who is more or less the father of this Bill—was prejudiced because of his hatred or his dislike of Hindu society. I wish the venerable friend who is here had tried to analyse and appreciate the reasons why Dr. Ambedkar does not like the society which has treated, not him alone, but millions like him in the way it has done—the same Hindu society which we hear extolled so much. I can say that if we had treated that part of our community more fairly, with greater justice if not with equality, there would not have been a Dr. Ambedkar hating the Hindu society. Similarly, if the Hindu society does not adjust itself, if it tries to continue to suppress one half of our population, namely, women-folk, whom we have treated as chattels all along, then there will be many more women coming up in the garb of Dr. Ambedkars, and heaven help Hindu society then.

Sir, it is not fair to talk in the name of Hindu society and Hindu religion. As I have already said, I do not lay claim to any profound knowledge of Hindu culture and Hindu society and Hindu religion. But I do know this, that whenever Hindu religion or Hindu society or Hindu culture has reached its height, that has always been when it was prepared to adapt itself, to assimilate and gain by the things that other religions or other societies were able to give to Hindu society. But I do know that in the name of Hindu culture, in the name of Hindu society, there are sections of our people who have raised their hand against this Bill, and who are sharpening their weapons even as we sit here deliberating in this House, to deal a death-blow to this Bill. But I warn those very people who are trying to do that, who are trying to destroy this Bill, in the name of Hindu religion, in the name of Hindu society, in the name of Hindu culture, that it is they who are the arch enemies of Hindu society, of Hindu culture, and of Hindu religion. (*Interruption.*) Because I

say that whenever Hindu society and Hindu culture and Hindu religion have tried to be static, whenever they have not been dynamic, whenever they have not been prepared to assimilate what the world could give them, whenever they have not been prepared to assimilate whatever the world could teach them, at that time Hindu society and Hindu culture and Hindu religion have been in danger and have been almost destroyed. Therefore, I most humbly ask those hon. Members here, and also those organisations outside, political and other, who are trying to make capital out of this, to desist. We are all aware that there were certain political parties who are financing opposition to this very Bill to the extent of lakhs of rupees. And we can anticipate that again from those very people who talk glibly of Hindu heritage and Hindu culture : we can anticipate that they will try their best to stop the progress of this Bill. We must be warned about this. We must see that this Bill, which does represent a progressive trend in our nation, is protected. We should see that it is passed into law without much ado

Already hon. Members have said that we should not have had even a motion for circulation for public opinion, because we have had volumes and volumes of public opinion. This Bill was not introduced a month ago or today. Public opinion from all organisations, from all sections of the people, has been expressed during the last 10 years. We have collected all those opinions. I do not know why we should have it sent again now. Is it to invite disaster to the Bill again? We are the representatives of the people. (*Interruption.*) I know what the public opinion is. There are many shady things which go by the name of public opinion. Public opinion can also be organised—organised by money, organised by orthodoxy, organised by all the vilest things that can ever happen in a nation. (*Interruptions.*)

Before I close, I should like to refer to one point. There was so much talk about monogamy and divorce and

other matters. As I have said again and again, I am not one of those who are great sociologists or persons who have delved into all the knowledge that we have on these subjects. But if I may be permitted to give a personal example, because it suits the occasion very well, I can tell the hon. Minister here that I was married seven years ago. I married a Hindu girl, a girl whom I could have married even according to Hindu rites—meaning that she belongs to my own caste. But there was this difference, that I was not married according to Hindu rites, but according to the Civil Marriage law, as it is called. We have lived for seven years. She is not a politician. And as most of us who are here are well aware, the stresses of a politician's life are the greatest on his wife, especially if she is not a politician. We have had big quarrels between us. I can divorce her today. She could have divorced me three years ago when I again started going to jail and came back almost a wreck to my family. She did not do it. It is not as if, just because there is provision for divorce, one just runs to court and gets it. Is it so easy as all that? This provision is availed of only in the case of unhappy marriages. Is it the contention of hon. Members who oppose divorce that all marriages are happy? Is it the contention of those hon. Members that the moment this provision for divorce is made, both husband and wife would rush to get it? Is it the contention of hon. Members that divorce rights should not be given to our married people? Is it their contention that today all such people are happy? Is it their contention that every wife is happy, and that every husband is happy, and that everything is all right? Is that their contention? But, Sir, again they try to.....

SHRI B. B. SHARMA : Does divorce bring happiness?

SHRI C. G. K. REDDY : Divorce does not bring happiness, nor does abandoning wives, in the name of Hindu culture and Hindu heritage, and living all your lives with mistresses

bring happiness, nor does it.. (*Interruption.*)

THE VICE-CHAIRMAN : The hon. Member can proceed.

SHRI C. G. K. REDDY : Now, we know, Sir, what is public opinion and what is a progressive religion in the minds, I believe, of some of our own hon. Members and we can understand what it is outside. Of course Hindu religion is progressive because it does allow the most vile things that can happen in the society. Therefore, according to the hon. Members let us preserve it so that we can have the progressive things like abandoning the wife and paying her ten rupees and living with another paying her thousands.

SHRI T. PANDE : Ramchandra was a Hindu. He has never done all that.

SHRI C. G. K. REDDY : Let us also not talk about Sri Krishna and so many millions of our people who are following in the footsteps of Sri Krishna in the name of Hindu religion. Sir, let us not quote scriptures in a haphazard fashion like this. Let us talk of realities as they are.

THE VICE-CHAIRMAN : The hon. Member should confine himself to the provisions of the Bill.

SHRI C. G. K. REDDY : Sir, what shall I do? I am being provoked. Sir, I am afraid they will be in strength through all their arguments. (*Interruption.*)

SHRI T. PANDE : What did Sri Krishna do?

SHRI C. G. K. REDDY : Sir, am I here to try to explain what Sri Krishna did? Well, I do not know, but I was told long long ago and I am still told that he did a lot of things which will not be recognised as decent things now.

THE VICE-CHAIRMAN : Please discuss the provisions of the Bill.

SHRI C. G. K. REDDY : Sir, when somebody opposes the Bill by say-

[Shri C. G. K. Reddy.]

ing that beautiful things are going to be vitiated by this wretched Bill, then I must try to put before this House and I hope, before the country what the wretched things in our society are which now we are trying to guard against through this Bill.

Sir, I have tried to explain already with reference to the ungallant remark that the hon. Member made that if you do not progress, if you do not accommodate, if you are not prepared to assimilate, if you are not prepared to go forward with the times, then not only you will have Dr. Ambedkar, but you will also have the entire women-folk of our country leaving our fold, hating us and hating the very religion which many hon. Members try to extol.

PRINCIPAL DEVAPRASAD GHOSH : I should think that Dr. Ambedkar at least was treated very handsomely by the Hindu society ; he rose to be the Law Member of the Government of India.

SHRI C. G. K. REDDY : Not because you wanted to, but because you had to. (*Interruption.*)

Anyway, whatever that may be, I shall try to finish, Sir. We know now and I hope the Leader of the House—and fortunately the Prime Minister is also here—will reconsider his decision to circulate it for public opinion and let us take up clause by clause consideration and pass it today, if it is possible, because I can foresee the manner in which the opposition is going to develop. The heat is already generated in this placid House. I can understand what is going to happen. They will organise poor women-folk, pay them and ask them to go in processions to Parliament House. They will also tell them.....

SHRI T. PANDE : Why are you afraid of opposition ? Do not dictate terms.

SHRI C. G. K. REDDY : Hon. friends are mistaken and I can tell them that so far as I am concerned, I have

never been afraid of opposition. I have never been afraid of even the Government. I have not been afraid of any opposition.

PRINCIPAL DEVAPRASAD GHOSH : Why be nervous ? Why be afraid of public opinion ?

SHRI C. G. K. REDDY : I am not afraid of public opinion. Already I have characterised some of the ways in which public opinion can be manifested. Money bags can manifest public opinion. I have said there will be a women's movement. Women will say "We do not want this measure." I cannot understand why they should do all that.

In this connection, Sir, I should like them to go back to the history of America where some of the slaves were quoted as saying "We do not want abolition of slavery." That is no argument, especially when they cannot think what is right. All that I say, Sir, is, let the Government be strong and I again appeal to the Leader of the House that now at least he must make it very definite that the Government stands by this Bill and it will also fall by this Bill. And so far as the Opposition is concerned, I can assure him that not only the votes, but the moral support of almost the entire Opposition is with him on this measure. If he thinks that his own Party men are going to betray him, we are all here to vote for him.

PRINCIPAL DEVAPRASAD GHOSH : Certainly, not the entire Opposition.

SHRI S. N. DWIVEDY : Sir, I move :

That the question be now put.

THE VICE-CHAIRMAN : Well, I will put the motion to the House after Shri Pande has spoken. I will allow him to speak for five minutes only.

SHRI B. GUPTA : May I make a submission, Sir ? The hon. Prime Minister is fortunately here and we would like to have his views on this Bill because the manner in which.....

THE VICE-CHAIRMAN : Order, order. Mr. Pande.

SHRI T. PANDE :

श्री टी० पांडे : सभापति महोदय, हिन्दू विवाह और तलाक विधेयक, जो हाउस के समक्ष उपस्थित है, उसके सम्बन्ध में बहुत विलम्ब से विचार हो रहा है। मैं भी दो-एक विचार आपके सामने रखना चाहता हूँ।

मुझे इसमें कोई सन्देह नहीं है कि इस कानून के उपस्थित करने में शीघ्रता की गई है और इसमें भी कोई मुझे सन्देह नहीं है कि इसके लिये सदन उपयुक्त स्थान नहीं है। भारतीय संस्कृति, परम्परा और शास्त्रों को सामने रख कर के अधिकारी पुरुषों द्वारा ही सामाजिक कानूनों में परिवर्तन किया जा सकता है। विवाह के सम्बन्ध में मैं हिन्दू विचारों को आपके समक्ष उपस्थित करता हूँ। विवाह कोई कांट्रैक्ट (contract) नहीं है और न यह तात्कालिक सम्बन्ध है, बल्कि यह दो आत्माओं का एक पवित्र मिलन है और अविभाज्य और अविच्छेद्य है। इसमें तलाक नहीं किया जा सकता और न हुआ है।

SHRI S. N. DWIVEDY :

श्री एस० एन० द्विवेदी : जहाँ अपवित्र है ?

SHRI T. PANDE :

श्री टी० पांडे : जहाँ अपवित्र है वह आपके साथ होगा, मेरे साथ नहीं है। मैं आपसे यह निवेदन करना चाहता हूँ कि हमारे हिन्दू समाज के आदर्श महाराज रामचन्द्र हैं, राम और सीता के आदर्श पर हम चलते रहे हैं और चलना चाहते हैं, जसमें हम कोई परिवर्तन नहीं करना चाहते हैं।

दूसरी बात मैं आपसे यह निवेदन करना चाहता हूँ कि विवाह के सम्बन्ध में विचार करने में न धार्मिक संस्कारों को और न धार्मिक विचारों को विशेष महत्व दिया गया है। इसमें सगोत्र, सपिंड, अनुलोम, प्रतिलोम सभी किस्म के विवाहों को, सभी तरह के विवाहों को मान्य ठहराया गया है। समाज में इसका परिणाम क्या होगा ? इसका परिणाम यह होगा कि वर्णसंकर संतान पैदा होंगी। हमने उनको भी स्थान दिया है और उनको भी मान्यता ठहराई है जो अधर्म सम्मत संतान हैं। इसका भी क्या परिणाम होगा, इसे मैं आपके समक्ष उन्ही शब्दों में रखना चाहता हूँ जिनमें कि महाभारत में वर्णन किया गया है।

SHRI R. U. AGNIBHOJ :

श्री आर० यू० अग्निभोज : वर्णसंकर भी हिन्दू होते हैं या हिन्दू छोड़ कर और कुछ होते हैं ?

SHRI T. PANDE :

श्री टी० पांडे : यह विदुर संतान जो है, जिनको वर्णसंकर कहते हैं, उससे समाज बट जायगा, इसका परिणाम क्या होगा, वह आपके सामने रख रहा हूँ। अगर आपने सगोत्र, सपिंड, अनुलोम और प्रतिलोम विवाहों को मान्य ठहराया, तो इसका परिणाम यह होगा कि समाज में नैतिकता का जो मेरुदंड है, वह टूट जायगा और अनाचार-वृद्धि होगी। समाज में भ्रष्टाचार फैलेगा, जिससे समाज कमजोर होगा और जो पुरातन श्रृंखलायें हैं वह टूट कर नष्ट हो जायेंगी। हिन्दू समाज में धर्म नहीं रह जायेगा, समाज में विकार उत्पन्न हो जायेगा।

तलाक का प्रश्न भी मैं आपके सम्मुख उपस्थित करता हूँ। इस तलाक का परिणाम क्या होगा ? उच्छृंखलता हो जायेगी।

[Shri T. Pande.]

आज विवाह करेंगे, कल तोड़ेंगे। यह गर्म मुल्क है, इसलिये जब तब उग्रता हो जाती है, और जब उग्रता होगी तो सम्बन्ध टूटेंगे। कुछ भाइयों को कानून मंत्री के ऊपर संदेह है कि उन्होंने दयानतदारी से यह कानून नहीं पेश किया है बल्कि उनका विचार कुछ और है और पेश कुछ और कर रहे हैं; और एक भाई तो इतने उत्तेजित हो गये कि वह कहते हैं कि हमारे प्रधान मंत्री जी अभी तशरीफ लाये हैं, उनके सामने अभी ही पास कर देना चाहिये।

SHRI C. G. K. REDDY : Will the hon. Member say how long we are going to wait for it?

SHRI PANDE :

श्री टी० पांडे : ऐसे उत्तेजित वातावरण में और ऐसे गर्म विचार में ऐसा मुझे मालूम होता है कि सुबह और शाम अन्वथा ही तलाक दिया करेंगे। परिणाम यह होगा कि समाज दूषित हो जायेगा और जिस अविवेक की हम कल्पना करते हैं उससे हृदय कांप उठता है।

बहुविवाह के सम्बन्ध में भी चर्चा की गई। मुझे कोई संदेह नहीं है कि सभ्य जाति में बहुविवाह इस समय नहीं है। मैं स्वयं बहुविवाह के पक्ष में नहीं हूं, उसका विरोधी हूं।

PRINCIPAL DEVAPRASAD GHOSH : It is already past six. Will it not be better for us to continue the discussion on Monday.

THE VICE-CHAIRMAN : We propose to finish the Bill to day.

SHRI T. PANDE :

श्री टी० पांडे : मैं अविलम्ब समाप्त कर रहा हूं। हमारे कम्युनिस्ट और समाजवादी

भाई और उन्हीं तरह के विचार के जो लोग हैं वे भारतीय संस्कृति, धर्म, आचार और परम्परा के सम्बन्ध में कितनी आस्था रखते हैं, वह हिन्दू समाज भली प्रकार जानता है।

SHRI C. G. K. REDDY : It is a most unfair statement. I would ask the hon. Member to withdraw it.

SHRI T. PANDE :

श्री टी० पांडे : ऐसा मालूम होता है कि चूंकि मैं भारतीय भाषा में भाषण कर रहा हूं इसलिये वह मेरी बात को समझते नहीं।

SHRI C. G. K. REDDY : I can understand it very well.

SHRI T. PANDE :

श्री टी० पांडे : मेरी भाषा को समझ लेते तो आप इन बातों को नहीं कहते। मैं यह कहना चाहता हूं कि हिन्दू समाज, हिन्दू संस्कृति, उसके संगठन, उसके पुनरुद्धार, उसकी उन्नति में वह क्या योग दे सकता है जिसका हिन्दू समाज और हिन्दू संस्कृति से वास्ता नहीं है? और उसके योग का मूल्य क्या हो सकता है यह मेरी समझ में नहीं आता।

(Time bell rings.)

एक मिनट में और आपका समय लूंगा।

पंडित जवाहरलाल नेहरू जी जब चुनाव के सिलसिले में प्रयाग का दौरा कर रहे थे या देश का दौरा कर रहे थे, उसमें उन्होंने जो भाषण दिये, उनमें से एक का उद्धरण एक सज्जन ने यहां पेश किया, उसका एक जुज पेश किया। मैं जानता हूं और मुझे इस में कोई संदेह नहीं है कि पंडित जवाहरलाल जी के वे निजी विचार थे, हिन्दू कोड बिल के बारे में या जो मौजूदा विधेयक है उसके बारे में उनके निजी विचार हैं।

यह कांग्रेस द्वारा प्रस्तावित कोई मान्य विचार नहीं है और मैं यह भी कहना चाहता हूँ कि भारत की लक्ष लक्ष जनता, जिसमें नर-नारी दोनों हैं, सभी इस बात के हामी हैं कि इस कानून को निश्चित रूप से पास न किया जाय। इसमें मुझे कोई संदेह नहीं है। एक भाई ने कहा कि पब्लिक से लोग आन्दोलन करायेंगे, द्रव्य खर्च कर करके इसका विरोध करायेंगे। मुझे इसकी कोई जानकारी नहीं है।

(Time bell rings.)

अन्त में स्पष्ट शब्दों में मैं यह कहना चाहता हूँ कि यह कानून, जो बहुविवाह वाला है, मैं इसके विपक्ष में हूँ, लेकिन मैं यह जरूर चाहता हूँ कि यह कुल भारतीय समाज के लिये लागू किया जाय। यह केवल हिन्दुओं के लिये ही नहीं बल्कि इस भारत में जितने लोग बसते हैं उन सब पर इसको लागू किया जाय।

इन शब्दों के साथ मैं इस विधेयक का विरोध करता हूँ।

SHRI S. N. DWIVEDY :

श्री एस० एन० द्विवेदी : क्या आपके विचार कांग्रेस के विचार हैं ?

[For English translation, See Appendix III, Annexure No 101.]

THE VICE-CHAIRMAN : Order, order. Prime Minister.

SHRI JAWAHARLAL NEHRU :

श्री जवाहर लाल नेहरू : अध्यक्ष महोदय, अभी थोड़ी देर से यहां जो भाषण हुए उसे मैं सुनता रहा हूँ, तो कुछ मेरी भी इच्छा हुई कि आपकी इजाजत से दो-चार शब्द कहूँ। विशेषकर जो हमारे भाई बलिया से यहां आये हुए हैं उनका अभी भाषण सुनकर मेरी भी इच्छा हुई कि कुछ कहूँ क्योंकि उन्होंने

हिन्दू संस्कृति, हिन्दू धर्म और अनेक बातों पर अपने विचार प्रकट किये। बलिया मेरे ही प्रान्त का एक जिला है, वहां तगड़े आदमी रहते हैं, अच्छे लोग रहते हैं। लेकिन मुझे अभी तक यह नहीं मालूम था कि भारत की संस्कृति का भी वह एक खास स्थान है और वहां से भारतीय संस्कृति की रोशनी निकलती है। मुझे भी भारतीय संस्कृति का कुछ ज्ञान है, मैंने भी कुछ उसका अध्ययन किया है और कुछ मैं भी जानता हूँ। अगर यही नक्शा भारतीय संस्कृति का है जो मेरे भाई ने बताया तो मुझे बहुत आश्चर्य होता है और रंज भी होता है। जो लोग इतिहास जानते हैं, खास कर भारत का, हिन्दुस्तान का, वह देख सकते हैं कि भारतीय संस्कृति कितनी ऊंची चीज थी। उसने हिन्दुस्तान को, भारत को ही ऊंचा और मजबूत नहीं किया बल्कि दुनिया में एक बड़ा असर डाला। वे यह भी जानते हैं कि एक जमाना आया जब वह ऊंची न रही। जो ऊंची संस्कृति थी वह तो वहीं रही लेकिन फिर भी भारत के रहने वाले ऊंचे नहीं रहे। इसलिये कि एक चीज जो जिन्दा थी, जीवित थी, उछलती थी, कूदती थी, फिरती थी, भागती थी, उस चीज को पिजड़े में बन्द कर दिया और कह दिया कि यह भारत की संस्कृति है, पिजड़े से न निकले। जहां कहीं किसी चीज को आप पिजड़े में बन्द करते हैं, जहां किसी चीज को दीवार के अन्दर रखते हैं, जहां उसका बढ़ना और फैलना रोकते हैं, तो वह चीज सिकुड़ती है, मर जाती है और आखिर में काफ़ी दिनों तक इस तरह रहने के बाद खत्म हो जाती है। भारतीय संस्कृति एक जानदार और शानदार चीज रही, बावजूद लोगों के पिजड़े में बन्द करके रखने के वह जीवित रही। भारत के इतिहास को देखें कि हमारा जमाना था, भारत के लोग दुनिया के चारों कोने में गये, भारत की संस्कृति को लेकर गये, भारत के धर्म को लेकर गये,

[Shri Jawaharlal Nehru.]

भारत की कला को लेकर गये और अब तक उनका नाम है। उसके बाद दूसरा जमाना आया कि उसी भारतीय संस्कृति के नाम से यह कहा जाने लगा कि कि अगर कोई आदमी भारत के बाहर जाये तो वह धर्म और संस्कृति के विरुद्ध है और वह अलग कर दिया जाता था, निकाल दिया जाता था। इसी तरह दूसरे को छू लिया तो हमारा धर्म चला जाता है। अगर हम दूसरे के साथ भोजन कर लें तो भी धर्म जाता है। इस तरह का हाल हमारी शानदार भारतीय संस्कृति का हुआ। कुछ हमारे भ्रात्यों ने इसे एक रसोई का धर्म बना दिया। जो हमारी संस्कृति जीवित थी, जिन्दा थी, चारों ओर फैली थी, आसमान तक पहुंची हुई थी, फैली थी, खिंची थी, उसको एक दायरे में खींच कर अपने पास ले आये, उसको बन्द कर दिया और रसोई के अन्दर बन्द करके रसोई का धर्म बना दिया। यह हुआ कि किसको छुओ, किस को न छुओ, यहां से वहां जाता है तो धर्म भ्रष्ट हो जाता है। इस तरह से भारत के समाज को कमजोर किया, बांध दिख जकड़ दिया, कैद कर दिया।

मैं क्या हर एक व्यक्ति, जो जरा भी देश का हाल जानता है, जिसे जरा भी देश से दिलचस्पी है, वह भारतीय संस्कृति का आदर करता है और उसमें ही उसकी शान है। लेकिन भारत की संस्कृति का मतलब यह तो नहीं है कि वह सिर्फ थोड़े से लोगों की चीज है, जो अपने को उसका ठेकेदार समझते हैं। क्या भारत की संस्कृति वही लोग है जो कहें कि आंख बन्द करके टांग बांध कर यहां बैठे रहो। आगे बढ़ना क्या हम छोड़ दें, यह विचार करने की बात है। यह तो एक छोटा सा बिल है, इस पर आप विचार कर रहे हैं और स्वीकार करेंगे लेकिन प्रश्न ज्यादा

गम्भीर है, ज्यादा गहरा है, कि किस ढंग से हम नये भारत को बनाते हैं, किधर हम देखते हैं, किधर हम जाते हैं, यह एक बड़ा प्रश्न है, यह एक ऐतिहासिक सवाल है। भारत में एक राजनैतिक तरक्की ने करवट ली है, भारत स्वतंत्र हुआ है। चार-पांच दिन से आप हमारी पंचवर्षीय योजना पर भी विचार कर रहे हैं। यह पांच वर्ष की योजना में जो कुछ विचार हुआ उसे समझें, उसे देखें। हम काफी दूर तक नहीं जाते, यह अलग बात है। लेकिन यह पंचवर्षीय योजना एक आर्थिक तरीके से करवट लेना है, आर्थिक तरीके से आगे बढ़ना है, और देश को आगे बढ़ाना है, क्योंकि आजकल खाली राजनैतिक तरीके से बढ़ना ही काफी नहीं है, उसमें शक्ति नहीं आती, उससे ही ताकत नहीं आती।

अब तीसरा सामाजिक पहलू है, क्योंकि जब तक समाज आंख खोल कर आगे नहीं बढ़ता तब तक आपकी राजनैतिक स्वतंत्रता होना और आपका आर्थिक रूप से बढ़ना काफी नहीं। जब तक हर पहलू से आगे न बढ़ें तब तक आगे बढ़ना कोई मानी नहीं रखता। इसलिये यह सामाजिक पहलू बहुत आवश्यक है। आपको विचार करना है कि किस तरह से हम देखें। कुछ लोग कहते हैं और ठीक कहते हैं कि जो हमारी जड़ है, जो हमारी भारतीय संस्कृति की बुनियाद है, उसकी बुनियादी जड़ है, एक दिमागी जड़ है, जिससे कि सैकड़ों और हजारों वर्षों से लोग बढ़े हैं, इस देश के लोग बढ़े हैं, उसको आप कायम रखें, उसको मजबूत रखें, जो बुनियादी खयाल हैं उनको मजबूत करें, लेकिन अगर आप जड़ ही जड़ रखें, उसमें न फल हों, न पत्ते हों, न शाखें हों तो फिर आप खाली जड़ से ही कोई लाभ नहीं उठा सकते। उसको तो बढ़ाना है। समाज क्या चीज है, जैसे कि एक व्यक्ति है,

आप हैं, मैं हूँ, हम हैं, रोज हम बदलते हैं, कल का दिन खत्म हुआ, कल का दिन मर गया, आज हम जिन्दा हैं, कल का दिन हमारे लिये मर गया, लेकिन हम जिन्दा हैं, रोज हर मिनट हम बदलते हैं, और बचपन, जवानी, बड़ापा आता है और हल्के हल्के अन्त होता है और फिर सिलसिला जारी रहता है। समाज भी इसी तरह से आगे बढ़ता है, बदलता है। हो सकता है कि उसका बदलना इतना हल्के हल्के हो कि नज़र नहीं आये। कभी कभी हल्के हल्के बदलता है और कभी कभी तेजी से बदलता है। समाज बदलता है और समाज बढ़ता है। समाज क्या है? मिसाल एक बच्चे की लोजिये। एक बच्चा है, वह कपड़ा पहिनता है। पोशाक पहिनता है। एक पोशाक ठीक है, उसको बहुत अच्छी लगती है, बहुत माकूल है, मगर जब बच्चा बढ़ता है तो वह कपड़ा ज़रा तंग होता है उसके बढ़ने को रोकने लगता है। अक्लमंद लोग, समझदार लोग, ज़रा कपड़े में ढील दे देते हैं कि बच्चा बढ़ सके या उसको बदल देते हैं। उसको जहां जहां जब जब बदलने की आवश्यकता होती है, जब जरूरत होती है तब तब उसको बदलते हैं। नहीं तो क्या बच्चे का बढ़ना कहीं रुकता है? क्या कोई एक कोट या कुर्ता बच्चे का बढ़ना रोक देगा? वह तो बढ़ेगा ही। हां, उसको तकलीफ होगी और समय पर अगर आप कोट न बदलिये तो भी बच्चा बढ़ेगा और कोट को फाड़ करके बढ़ेगा। इसी तरह समाज है वह तो बदलेगा ही, बढ़ेगा ही। अगर बच्चे को कपड़ा बड़ा नहीं पहिनाते तो वह कपड़ा फाड़ कर बढ़ेगा, यह कपड़े का फटना ही समाज की क्रान्ति कहलाती है और यह एक बड़ी क्रान्ति होती है। इस तरह से जो समझदार लोग होते हैं वह इसका इंतज़ार नहीं करते कि पुराना कपड़ा चारों तरफ से चिथड़े हो झो कर फट जाय और फिर कुछ दिन गंगा

फिरे और फिर दूसरी पोशाक पहिने बल्कि वह समय पर कपड़े को बदलते हैं, पोशाक को बदलते हैं। इसी तरह से सामाजिक परिवर्तन होते हैं, जो रुढ़ि होती है, जो बुनियादी बातें होती हैं, वह तो नहीं बदलतीं, वह तो वही रहती हैं; हां, छोटी छोटी बातें बदलती हैं। कोई भाई हमसे कहें कि प्राचीन समय में तो हम रथों पर चढ़ा करते थे इसलिये हम रथ पर ही चढ़ें। रथ एक बड़ी अच्छी चीज़ है इसमें शक नहीं लेकिन आज क्या कोई भाई यहां से रथ पर बम्बई जायेंगे या और किसी दूसरे तरीके से जायेंगे? यह तो समय के बदलने की बात है, समय बदलता है, समय के साथ समाज बदलता है और समय के साथ व्यक्ति बदलता है। नहीं बदलता है, तो पिछड़ जाता है, जैसा कि हमारे समाज में हुआ। हम कोशिश कर रहे हैं कि फिर आगे बढ़ें और पकड़ लें।

एक और बात है, हिन्दू समाज की चर्चा होती है। हिन्दू समाज क्या चीज़ है। ज़रा आप बिचार करें कि क्या हिन्दू समाज एक ढंग का है, कोई एक रंग का है। भारत में आप ज़रा फिरे, मुझे फिरने का बहुत मौका मिला है। मैंने देखा कि हिन्दू समाज के अनेक रूप हैं। मैं आपसे कहूंगा कि हिन्दू समाज क्या है! हिन्दू समाज एक शक्ति है, लेकिन उसमें अनेक रूप हैं। यह नहीं है कि वह बंधा हुआ है और हर जगह एक सा है। यही तो उसकी शक्ति है, यही तो उसकी ताकत है कि बंधा हुआ नहीं है, अपनी अपनी जगह अपना अपना रूप लिये हुए है। जहां तक बुनियादी बात का सम्बन्ध है वह तो एक ही है लेकिन अपनी अपनी आवश्यकता के अनुसार अपना रूप ले रखा है और अनेकों रूप लिये हुए है, यही उम की शक्ति है। इसी कानून को आप लें, यह जो तलाक और डाइवोर्स का है। हर

[Shri Jawaharlal Nehru.]

एक जानता है कि हिन्दुओं में ८० फीसदी लोगों में यह है, खाली कुछ ऊंची जातियों में यह नहीं है, और कौमों में है। तो या तो आप कहें कि वे तो हिन्दू नहीं हैं, हम ही हिन्दू हैं, कुछ ऊंची जाति के लोग ही हिन्दू हैं और बाकी नहीं हैं, तो इसका भी दूर तक असर होता है और आप इस तरह से अपने को सिकोड़ते हैं और उनको बाहर करते हैं। जिस तरह से कि किसी जमाने में आप लोगों ने बहुत से लोगों को कर दिया था। अच्छा नहीं किया। उनको हरिजन समझा, अछूत समझा और अब पछताते हैं और नतीजा यह होता है कि उनको अब अपनाते हैं। इसलिये हिन्दू समाज में सभी लोग हैं, सब कायदे-कानून हैं, कोई बात इस कानून में ऐसी नहीं है जो कि हिन्दू समाज में न हो, जो कि इस वक्त सारे हिन्दू समाज में न हो, लेकिन आप कहें कि एक जगह है, कुछ लोगों में है, कुछ में नहीं है तो फिर इसमें यह समझ लेना कि हम कोई एक बड़ा कदम उठा रहे हैं, यह भी गलत बात है। यह तो एक मामूली बात है। मुझे इसमें कोई सन्देह नहीं है कि अंग्रेजी राज्य के आने से पहले भी बहुत दिनों से हिन्दू समाज कुछ जकड़ गया था, अंग्रेजों के आने पर तो और भी जकड़ गया। हम आगे नहीं बढ़ रहे थे। चाहे आप हमारे साहित्य को ही देखें, जो हमारा पुराना साहित्य है, वह बहुत ऊंचा है, परन्तु इस बीच के जमाने का हमारा साहित्य भी सिकुड़ गया। इसी तरह से कला देखिये, वह भी सिकुड़ गई, वह भी रुक गई। हम नहीं बढ़ रहे थे, हमारे दिमाग सिकुड़ गये थे, हम पुरानी रोशनी में रहते थे, हमारे दिमाग में नई रोशनी नहीं आई। फिर भी कुछ न कुछ माद्दा हमारे हिन्दू समाज में बढ़ने का था, हमारा हिन्दू समाज डाइनामिक (dynamic) था। हिन्दुओं

का कानून क्या था, आप जानते हैं? जैसे कि अंग्रेजों के लिये मशहूर है कि उनका कांस्टी-ट्यूशन अनरिटन (unwritten) है, लिखा हुआ नहीं है, उसी तरह से हिन्दुओं का कानून भी अनरिटन था। कहा जाता है "हिन्दू ला एंड कस्टम्स" (Hindu Law and Customs)। कस्टम ही सब से बड़ा जुज था हिन्दू ला का। जो रिवाज हो, जो कस्टम हो उसको बहुत माना जाता था। हर तरह के कस्टम थे, (कहीं एक दूसरे के खिलाफ कस्टम थे,) लेकिन वह डाइनामिक थे, बदलते रहते थे, बढ़ते रहते थे, उसमें रुकावट न थी। अंग्रेजी राज्य आया, तो उन्होंने उसको जकड़ दिया, कोड बना कर कि यह हिन्दू ला है, और बांध दिया। बांधा भी कैसे? जिन लोगों से उन्होंने सलाह-मशविरा किया, उन्होंने जो जो सारे रीति रिवाज थे, उनकी चर्चा की और जो बातें पुरानी किताबों में लिखी थी, उसकी चर्चा की और अंग्रेजी में कोड बना कर उसको जकड़ दिया। जो हिन्दू समाज में हल्के हल्के अपने को बदलने की एक शक्ति थी उसको रोका गया और अंग्रेजी जमाने में वह शक्ति और भी रुक गई। अब अगर कोई चीज़ हो सकती थी तो वह रिवाज से नहीं हो सकती थी बल्कि वह कानून से ही हो सकती थी। पहले रिवाज बदलते थे तो कोई नहीं देखता था और समाज बदल जाता था। अब जो कुछ करवाना है, उसके लिये कानून से दरवाजा खोल देते हैं, ताकि हल्के हल्के रिवाज बनने लगें और हमें फिर से हिन्दू समाज में वह एक ज़िंदगी लानी है, वह बढ़ने का एक माद्दा लाना है। ताकि वह फिर हाथ-पैर फैलाये, उसकी शक्ति हो, और जो उसकी बुनियादी संस्कृति है, उसकी रोशनी में रह कर अपनी तरक्की करे और मुल्क की तरक्की करे। चनाचे जो यह बिल है उसकी पुरानी

कहानी, मैं समझता हूँ कि, आप जानते हैं। हिन्दू कोड बिल में हम फंस गये थे। इसलिये फंस गये थे कि कोशिश हमने यह की थी कि बहुत सारी बातें उसमें इकट्ठे ही ले आयें। नतीजा यह हुआ कि वर्षों गुजरते जाते थे और कदम बढ़ते नहीं थे। इसलिये हम इसको छोटा-छोटा करके अलग-अलग टुकड़ों में ला रहे हैं ताकि इत्मीनान से बहस हो कर एक एक बात का फैसला हो और इस तरह से आगे बढ़ें। यह जो तजवीज है कि इसको लोगों की सलाह लेने के लिये भेजा जाय, इसकी मैं तार्ईद करता हूँ। मुझे इसका बिल्कुल डर नहीं है कि जनता इसके विरोध में है। हो सकता है कि जनता में कहीं कोई विरोध में हो और कहीं कोई न हो।

SHRI C. G. K. REDDY : The hon. Leader of the House has invited opposition by his speech !

THE VICE-CHAIRMAN : No, no.

SHRI JAWAHARLAL NEHRU :

श्री जवाहरलाल नेहरू : मैं कह रहा था कि इस पर तो बहुत बहस हो चुकी है इसलिये इसकी मुझे फिक्र नहीं है। लेकिन हम चाहते हैं कि यह पक्के तौर से चले और जल्द से जल्द यह मुकम्मिल हो और जहां तक मुमकिन हो, ज्यादा वक्त भी सर्फ न हो और किसी को किसी किस्म की शिकायत भी न हो। ऐसे मामले में जब कि समाज के बारे में कोई काम किया जाता है तो मजबूती से चलना चाहिये। इसलिये अगर इसमें तीन चार महीने सर्फ भी हो जायें तो कुछ हर्ज नहीं। अब मजबूती से चलें और इसको पक्की तरह से करें। मुझे विरोध का कोई डर नहीं है। अगर डर हो कि हमारा समाज इसको स्वीकार नहीं करेगा तो फिर आपके कानून लाने से क्या फायदा ? वह

तो कानून ही नहीं हो पायेगा और टूट जायेगा। कागजी कानून से तो आप समाज नहीं बदल सकते। चुनावों में इसकी फिर तार्ईद करता हूँ।

[For English translation, see Appendix III, Annexure No. 102.]

SHRI B. GUPTA : May I know why the Hindu Code Bill in its entire form is not here ?

SHRI JAWAHARLAL NEHRU : As I have just now said, for the simple reason that if you put up the whole thing today, it will take so much time that it will never be passed. From practical experience we find that those who may oppose it here or elsewhere can delay matters indefinitely. Therefore we want to take it in Chapters and decide one thing at a time. If you want to dispose of the whole thing, it may take two or three years' time.

PROF. G. RANGA : May I know if once it comes back from circulation, at least before the next session is over—that is I suppose by the 10th April or so—Government will try to see this through ?

SHRI JAWAHARLAL NEHRU : Of course. It is our idea to have a Joint Committee of the two Houses on this after it comes back from circulation and then proceed with it.

SHRI C. G. K. REDDY : The hon. Prime Minister said that we are going to have it piece by piece so that it will be easier to get through but there is one danger of this. Unless we look at it in a whole comprehensive manner, occasions may arise when each piece may go in conflict with the others.

THE VICE-CHAIRMAN : Would it not defeat the object ?

SHRI JAWAHARLAL NEHRU : If I may say so, the whole picture, as a picture, has been there for years now. You may change bits of it. Suppose we take something like adoption separately, it is a separate subject. You can fit it in.

THE VICE-CHAIRMAN : A motion has been moved that the question be now put.

The question is :

That the question be now put.

The motion was adopted.

THE VICE-CHAIRMAN : Would the Law Minister like to say anything ?

SHRI C. C. BISWAS : Sir, after what the Prime Minister has stated, with the whole background before us, I do not think I am called upon to say anything further. I would not like to deal now with the details that were raised by some of the speakers here. But one matter I would like to explain. The charge was levelled against me that I do not believe in this Bill, that I do not support it and that I was, as it were, speaking with my tongue in my cheek, if I may use that expression.....

SHRI B. GUPTA : I did not say that.....

SHRI C. C. BISWAS : That is a most unfair accusation.

SHRI B. GUPTA : It was not a charge against you.

SHRI C. C. BISWAS : So far as bigamy and divorce are concerned there has been absolutely no departure from the attitude of Government on these matters. There were some changes in the Bill, changes which have been made in order that the Bill may be passed in the quickest possible time. We have learnt by experience. Dr. Kunzru asked the question, "Where is the comprehensive picture ?" Now, the comprehensive picture was brought forward before. What was the result ? The comprehensive picture was placed before the House and the country, and the result was, it stuck. It made no headway. Are we going to repeat that experience ? Therefore we have first introduced this Bill dealing with only marriage and divorce. Marriage and divorce are topics which are unconnected with topics like adoption or succession or minorities

and so on. So there is no question of the Minister for Law going back upon the commitments of Government in this respect.

SHRI B. RATH : Just one question, Sir, if you will please permit me.

THE VICE-CHAIRMAN : No more speeches.

SHRI B. RATH : Just one question, Sir. No speech.

THE VICE-CHAIRMAN : If it is a question, I shall allow you, but please put the question in the proper fashion and not in a frantic mood.

SHRI B. RATH : Yes, Sir. The question is this. Why is it that in this Bill the maximum age limit for the marriage—the ages of the two parties to the marriage, of the man and the woman—has not been fixed ? Does not the Government consider this a vital matter ?

SHRI C. C. BISWAS : That is a point of detail which we will consider later.

THE VICE-CHAIRMAN : The hon. Minister has answered the question.

SHRI B. RATH : Sir,.....

THE VICE-CHAIRMAN : No more questions.

SHRI B. GUPTA : Sir, I only want to say that I did not make any charge that.....

SHRI C. C. BISWAS : I did not mention any hon. Member by name.

THE VICE-CHAIRMAN : Order, order.

I put the amendment to the vote.

The question is :

That in the motion, for the words and figures "by the 14th February 1953" the words and figures "by the 1st March 1953" be substituted.

The motion was adopted.

THE VICE-CHAIRMAN : The question is :

That the Bill to amend and codify the law relating to marriage and divorce among Hindus be circulated for the purpose of eliciting opinion thereon by the 1st March 1953.

The motion was adopted.

THE VICE-CHAIRMAN : The Cantonment Bill.

SHRI H. N. KUNZRU : We cannot have that Bill, Sir. It is already too late. May I ask Government whether that Bill is of such fundamental importance that it must be taken up now ?

THE VICE-CHAIRMAN : Well, there is a message from the other House.

MESSAGE FROM THE HOUSE OF THE PEOPLE

THE ABDUCTED PERSONS (RECOVERY AND RESTORATION) AMENDMENT BILL, 1952.

SECRETARY : Sir, I have to report to the Council the following message received from the House of the People signed by the Secretary to the House :

"In accordance with the provisions of Rule 148 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to inform you that the House of the People, at its sitting held on the 20th December 1952, agreed without any amendment to the Abducted Persons (Recovery and Restoration) Amendment Bill, 1952 which was passed by the Council of States at its sitting held on the 13th December 1952."

I lay the Bill on the Table.

THE VICE-CHAIRMAN : The House stands adjourned to 10-45 A.M. on Monday, the 22nd December.

The Council then adjourned till a quarter to eleven of the clock on Monday, the 22nd December, 1952.