

Friday, September 21, 1951



PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME IX, 1951

(7th August to 21st September, 1951)

Fourth Session

of the

PARLIAMENT OF INDIA

1951

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CORRIGENDA

In the Parliamentary Debates (Part 1—Questions and Answers) Fourth Session of Parliament,—1951,

In Volume IX,—

1. No. 7, dated the 16th August, 1951,—

कालम ३३०, पंक्ति १०, “क्या माननीय कृपा” के स्थान पर “क्या माननीय मंत्री जी कृपा” पढ़ें ।

2. No. 8, dated the 17th August, 1951,—

(i) Col. 376, line 14 from bottom for “and” read “any”.

(ii) Col. 380, delete the existing line 13 and between lines 15 and 16 insert new line “subject. The Central Tractor Organisation”.

(iii) Col. 381, for the existing line 18 from bottom substitute the new line “तुम्हें (Shri K. M. Munshi): (a) It is”.

3. No. 12, dated the 22nd August, 1951,—

کالم ۵۳۰، آخر سے سطر ۱۲،، آخر کی بجائے ,, آخر، پڑھیں۔

4. No. 13, dated the 23rd August, 1951,—

(i) कालम ६०२, पंक्ति १८ “निर्यात” के स्थान पर “निर्यात” पढ़ें ।

(ii) Col. 612 for the existing line 4 from bottom read “July-December, 1951—January-June”.

5. No. 16, dated the 28th August, 1951,—

(i) Col. 723, line 12 for the figures “-14,86” read “ 14,86”.

(ii) Col. 727, line 8 for the figures “88,87” read “88,872”.

6. No. 19, dated the 31st August, 1951,—

कालम ८५०, पंक्ति ४ “मंगी” के स्थान पर “मन्त्री” और नीचे से पंक्ति १७ “घोर के खिलाफ” के स्थान पर “और उस के खिलाफ” पढ़ें ।

7. No. 20, dated the 3rd September, 1951,—

कालम ८९१ नीचे से पंक्ति ४, “उपया” के स्थान पर “रुपया” पढ़ें.

8. No. 22, dated the 5th September, 1951,—

Col. 1014, line 15 for the figures “36,00,000” read “35,00,000”.

9. No. 24, dated the 7th September, 1951,—

(i) Col. 1115, line 8 for the words “Laid on the Table” read “House”.

(ii) Col. 1116, line 25 from bottom for “word” read “work”.

(iii) Col. 1119, transpose the existing lines 7 and 15.

10. No. 29, dated the 15th September, 1951,—

(i) Col. 1327 from bottom line 6 for “Teteorotogical” read “Meteorological”, and line 7 for “in 3 : 2” read “is 3-03”.

(ii) Col. 1336, line 2 from bottom for “convering” read “covering”.

(iii) Col. 1343, line 7 from bottom for “by” read “to”.

(v)

11. No. 30, dated the 17th September, 1951,—

Col. 1400, line 11 from bottom *for* "RECON-" *read* "Re. CON-".

12. No. 31, dated the 18th September, 1951,—

Col. 1434, line 15 *for* "miles" *read* "mills".

13. No. 32, dated the 19th September, 1951,—

(i) Col. 1505, between existing lines 23 and 24 from bottom *insert* new line "being found with money is not".

(ii) Col. 1510, line 13 from bottom *for* "July, 1951" *read* "1st July, 1951".

PARLIAMENT OF INDIA

The Speaker

The Honourable Shri G. V. Mavalankar.

The Deputy-Speaker

Shri M. Ananthasayanam Ayyangar.

Panel of Chairmen

Pandit Thakur Das Bhargava.

Shrimati G. Durgabai.

Shri Prabhu Dayal Himatsingka.

Sardar Hukam Singh.

Shri Manilal Chaturbhai Shah.

Secretary

Shri M. N. Kaul, Barrister-at-Law.

Assistants of the Secretary

Shri A. J. M. Atkinson.

Shri N. C. Nandi.

Shri D. N. Majumdar.

Shri C. V. Narayana Rao.

GOVERNMENT OF INDIA

Members of the Cabinet

- Prime Minister and Minister of External Affairs—The Honourable Shri Jawaharlal Nehru.
Minister of Education—The Honourable Maulana Abul Kalam Azad.
Minister of Home Affairs—The Honourable Shri C. Rajagopalachari.
Minister of Defence—The Honourable Sardar Baldev Singh.
Minister of Labour—The Honourable Shri Jaggivan Ram.
Minister of Health—The Honourable Rajkumari Amrit Kaur.
Minister of Law—The Honourable Dr. B. R. Ambedkar.
Minister of Works, Production and Supply—The Honourable Shri N. V. Gadgil.
Minister of States, Transport and Railways—The Honourable Shri N. Gopalaswami Ayyangar.
Minister of Commerce and Industry —The Honourable Shri Hare Krushna Mahtab.
Minister of Food and Agriculture—The Honourable Shri K. M. Munshi.
Minister of Natural Resources and Scientific Research—The Honourable Shri Sri Prakasa.
Minister of Finance—The Honourable Shri Chintaman Dwarkanath Deshmukh.

Ministers not in the Cabinet

- Minister for the purposes of agreement between the Prime Ministers of India and Pakistan of the 8th April, 1950—The Honourable Shri C. C. Biswas.
Minister of State for Transport and Railways —The Honourable Shri K. Santhanam.
Minister of State for Information and Broadcasting—The Honourable Shri R. R. Diwakar
Minister of State for Parliamentary Affairs—The Honourable Shri Satyanarayan Sinha.
Minister of State for Rehabilitation—The Honourable Shri Ajit Prasad Jain.
Minister of State for Finance—The Honourable Shri Mahabir Tyagi.
Deputy Minister of External Affairs—Dr. B. V. Keekar.
Deputy Minister of Commerce and Industry—Shri Dattatraya Parashuram Karmarkar
Deputy Minister of Defence—Major General Himatsinhji.
Deputy Minister of Works, Production and Supply—Shri S. N. Buragohain.
Deputy Minister of Food and Agriculture—Shri M. Thirumala Rao.
Deputy Minister of Communications—Shri Raj Bahadur.

THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

1549

1550

PARLIAMENT OF INDIA

Friday, 21st September, 1951

*The House met at Half Past Eight
of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

RONGOLITE

*1189. **Shri Sidhva:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether Rongolite is under O.G.L.;

(b) from what country it is imported;

(c) what are the requirements of the country in this material and what is the stock at present in the country;

(d) whether this article is allowed to be exported to other countries; and

(e) if so, what are the reasons for such export?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) U.K., West Germany, Czechoslovakia, France and the U.S.A.

(c) 500 tons per annum. Information regarding present stocks in the country is not available.

(d) and (e). Export is at present not allowed. Where, however, firm letters of credit have been opened, cases will be considered on merits, as Rongolite C is unstable and should be consumed as soon as possible after its manufacture.

Shri Sidhva: May I know whether the imported quantities have been found to be in excess of our requirements and whether there have been any instances where export to other countries has been not allowed, and if so for what reason?

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Shri Karmarkar: Yes, recently all imported goods have been brought under the export control with a view to seeing that the internal supply is assured. But where firm letters of credit have been opened, there the cases are considered on merits, as I have already stated. At present we do not permit any imported quantity to be exported.

Shri Sidhva: Has there been any reference or complaint to the Government by some organisations that though they wanted to export quantities which were in excess of requirements, the permission to export was not granted, and if so, what was the reason for not allowing this export?

Shri Karmarkar: No such complaint has been received. When a party applies for export permission, each case is considered on its merits.

Shri V. J. Gupta: Sir, may we know what is this Rongolite? Is it a metal or non-metal and what are its properties and what are its uses?

Shri Karmarkar: Rongolite C is also known as Sodium sulphoxylate formaldehyde, and what that means I shall find out.

Shri Sidhva: Sir, this substance is used for leather cleaning. May I know why these large quantities were allowed to be imported when our requirements are very small and why is it that exports are now being disallowed?

Shri Karmarkar: Imports were permitted in reasonable quantities. But the thing has to be consumed as early as possible, and so that the local importers may not suffer at home they were permitted exports to the minimum extent. But in view of the present position we have stopped such exports except where firm letters of credit have been opened.

Shri Sidhva: Sir, the hon. Minister said that he has received no complaint from intending exporters. Will he look into this matter and see if any such

complaint has since been received about exports being stopped in cases where the letter of credit has been issued?

Shri Karmarkar: Certainly.

CLOTH FOR CHINA

*1190. **Shri Sidhva:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether China has asked the Government of India to supply a certain quantity of cloth;

(b) if so, whether Government have need;

(c) what will be the quantity and what quality is to be supplied; and

(d) whether the transaction will be under the Bilateral Agreement?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes.

(b) Yes.

(c) 20 million yards of medium cloth.

(d) No.

Shri Sidhva: Will this export being allowed to China in any way affect the supply of cloth to meet our internal requirements?

Shri Karmarkar: No. This is only 20 million yards out of the 844 million yards of this year's production which is scheduled for export this year before December, 1951.

Shri Sidhva: Did they ask for the export of yarn also?

Mr. Deputy-Speaker: The question is about cloth and not of yarn.

Shri Karmarkar: I am not aware of the position regarding yarn.

Shri Chattopadhyay: What material do we get in exchange?

Shri Karmarkar: Food, as the hon. Member doubtless knows.

Shri Amolakh Chand: May I know whether we have received any complaint from the Chinese Government about the distribution and the quality of the exported cloth?

Shri Karmarkar: If it is distribution in China, I may say they have never complained about what happens in China. And as for complaint about the quality, none has been received because nothing has yet been exported.

Shri A. C. Guha: May I know whether the mills will be permitted to export this cloth or also outside exporters?

Shri Karmarkar: Mills and exporters who had allotments out of the 97 million yards announced earlier may utilise for export to China whatever balance is available out of one-third of their allotment permissible for exports to destinations other than Pakistan. Secondly, top-class mills may utilise the entire balance against their allotments. And thirdly, the post-war mills and any other mills to whom special allotments have been made may utilise the available balance against their allotments. That is the policy.

Shri A. C. Guha: Is the cloth that is being exported superfine or the medium variety?

Mr. Deputy-Speaker: It has already been stated that it is the medium variety.

Shri M. Nalk: May I know whether the Chinese Government have established a mission here in order to encourage the export of cloth from India?

Mr. Deputy-Speaker: Does the hon. Member mean a purchase mission?

Shri M. Nalk: Yes, Sir.

Shri Karmarkar: They have indicated that the purchases will be made by a particular firm, namely—Pao Yuen Tung Trading Company, P.35, Royal Exchange, Calcutta.

Shri Chattopadhyay: Has any specific agreement been entered into to the effect that only medium cloth will be exported and not the super-fine or fine quality?

Shri Karmarkar: No, that was their requirement and we agreed to the export of the medium quality, and that does not affect our internal supply position.

RAZOR INDUSTRY

*1191. **Dr. Ram Subhas Singh:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether razor making industry exists in India;

(b) what percentage of our razor requirements is met by India-made razors; and

(c) from which country or countries India imports razors?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Not on any organised basis.

(b) Very small.

(c) Mainly from the U.K., West Germany and France.

Dr. Ram Subhag Singh: Razor-making being a cottage industry, is there any proposal to grant protection to this industry?

Shri Karmarkar: No representation has yet been made to this effect, probably for the reason that such razors are not used in very large quantities. It is a cottage industry, no doubt and country-made razors are in use at many places.

Dr. Ram Subhag Singh: May I know at what places this razor-making industry exists?

Shri Karmarkar: As the hon. Member probably knows, wherever there are customers for this kind of razors there this industry exists, almost in all parts of the country. But I am unhappy to say that these razors do not have a large number of customers.

Shri A. C. Guha: Is it a fact that during the war most of our internal requirements of razors were met by these country-made razors and if so, why should there be this import of razors from abroad?

Shri Karmarkar: I cannot say; but possibly during the war, because we did not get imports, customers got themselves shaved by country-made razors; but as soon it was possible to get imports, they again took to the imported razors.

Dr. Ram Subhag Singh: What is the percentage of duty charged on the imported razor?

Mr. Deputy-Speaker: That will be in the tariff schedule. The hon. Minister cannot carry all that detailed information with him.

Shri Amolakh Chand: May I know if safety razors are also being manufactured in India as a cottage industry?

Shri Karmarkar: Safety razors are not, but recently there has been the manufacture of safety razor blades by some concern.

RURAL LOAN.

*1192. **Dr. Ram Subhag Singh:** (a) Will the Minister of Rehabilitation be pleased to state whether it is a fact that a rural loan has been granted by the Rehabilitation Ministry to the Rajasthan and Bhopal Governments?

(b) If so, what is the amount of that loan?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) Yes.

(b) Total amount granted so far to the Government of Rajasthan is Rs. 209.50 lakhs and to the Bhopal administration Rs. 18.98 lakhs.

Dr. Ram Subhag Singh: May I know whether the loan has been given to those Governments for any specific purpose?

Shri A. P. Jain: Yes, loans are always given for specific purposes.

Dr. Ram Subhag Singh: What is the purpose for which the loan has been given to the Rajasthan Government?

Shri A. P. Jain: As housing loan, loan for setting up petty trades, i.e., up to Rs. 5,000 for business and industries, rural loans, etc.

WASTE LEAD AND METAL SCRAP (EXPORT)

*1193. **Dr. Ram Subhag Singh:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that the export of waste lead and metal scrap is prohibited;

(b) whether it is a fact that Bombay Customs authorities detected six consignments of 500 tons of scrap and waste lead;

(c) if so, where those consignments were booked for; and

(d) who was the owner of these goods?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) The Bombay Customs authorities are reported to have detected two consignments; one of 195 tons 8 cwts. of lead residue and lead waste and the other of 42 tons 5 cwts. of copper metallic scrap.

(c) The consignments were booked for Antwerp (Belgium).

(d) The owners were (i) Messrs. The Straits Calcutta Commercial Co. (1948), 93-A. Nagdevi Street, Bombay. 3 and (ii) Messrs. Hindustan Products Corporation, 65, Mahatma Gandhi Road, Fort, Bombay.

Dr. Ram Subhag Singh: Is it a fact that the people concerned are attempting to smuggle these materials with the help of some of the Customs Officials?

Shri Karmarkar: No, I have no such information. Customs belongs to the

Finance Ministry who will perhaps be able to enlighten the hon. Member better on this point.

KAZZAKS FROM TIBET

*1194. **Shri Krishnanand Rai:** Will the Prime Minister be pleased to state:

(a) whether there has been an influx of Kazzaks from Tibet into India through Kashmir or other territories this year:

(b) how many refugees, Kazzaks or others have entered into India from Tibet, since its occupation by Chinese forces; and

(c) whether Kazzaks and other refugees from Tibet have entered into India with the permission of Government?

The Prime Minister (Shri Jawaharlal Nehru): (a) to (c). Owing to various causes, numbers of Kazzaks have been moving across Western Tibet towards the borders of the Jammu and Kashmir State in Ladakh. Efforts have been made to stop their entry and for this purpose border-posts have been strengthened. It is Government's policy to stop their entry into Jammu and Kashmir State and to send back, as far as possible, those who have already entered. The exact number of Kazzaks who have actually entered the State territory is not known, but a rough estimate puts the figure at about 450. 25 of these have been permitted to proceed to Srinagar. Some of these have expressed their intention of proceeding to the Hejaz.

Shri Krishnanand Rai: May I know whether our Government enquired from some of the Kazzaks who have entered into India the reasons why they were leaving Tibet at the present time?

Shri Jawaharlal Nehru: No, because the reasons are fairly well known.

Shri Krishnanand Rai: May I know whether any communication has been sent by the Government of India to the Government of Tibet or China about the influx of Kazzaks from Tibet?

Shri Jawaharlal Nehru: There has been no formal communication but our representative in Tibet has drawn the attention of the Tibetan Government to the fact that these Kazzaks come across Tibet from beyond Tibet. They do not come from Tibet: they simply pass through Tibet.

Shri D. D. Pant: What is their nationality?

Shri Jawaharlal Nehru: Mostly they come from Sinkiang.

Dr. Ram Subhag Singh: May I know whether the passports of individual Kazzaks are examined before they are allowed to proceed to Srinagar? The Prime Minister said that 25 of them were allowed to proceed to Srinagar. On what basis they were allowed to proceed to Srinagar?

Shri Jawaharlal Nehru: In so far as these 25 Kazzaks are concerned the basis has been that their families had come here previously some years ago and there are people connected with them in Srinagar. Hon. Members will remember that during the war time a large number, about four or five thousand, of Kazzaks came over. Gradually they have been dispersed and many have gone away. Even now I think that there are 200 or 300 in Srinagar doing some trade or other. The House might know that there used to be a very prosperous trade between Kashmir and Central Asia and many of these Kazzaks were responsible for that trade. So arose their contact with Srinagar. Sometimes a part of their family is there or a branch of their business is there. Those persons who have been allowed to come in are somehow connected with those who had come previously in connection with their business here.

Shri Amolakh Chand: May I know if there has been any infiltration on the borders of Almora?

Shri Jawaharlal Nehru: Not of this kind that I am aware of.

Shri Rathnaswamy: May I know whether any facilities, financial or otherwise, have been extended to the Kazzaks for settling down in India?

Shri Jawaharlal Nehru: Every possible difficulty has been placed in their way.

Dr. Ram Subhag Singh: May I know whether the report published in today's papers is correct, namely, that a Chinese official came to Leh and complained to the Indian authorities there that these Kazzaks had kidnapped three Tibetans while coming from China to India?

Shri Jawaharlal Nehru: I am sorry I have not seen that particular report and so I can say nothing about it. However, it seems to me highly enlightening that any such complaint has been made at Leh by anybody.

PLANNING OF GREATER DELHI

*1195. **Shri Jnani Ram:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the personnel of the Central Co-ordination Committee for the development of Greater Delhi;

(b) whether the Committee has submitted any report;

(c) if so, when; and

(d) what are the main plans for improving the town and development of Greater Delhi?

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

(a) The personnel of the Central Co-ordination Committee for Greater Delhi is as follows:

(1) Hon. Minister in-charge of Works, Production and Supply—(Chairman).

(2) Chief Commissioner, Delhi—(Vice-Chairman).

(3) Member of Parliament representing Delhi.

(4) President, New Delhi Municipal Committee.

(5) President, Delhi Municipal Committee.

(6) Chairman, Delhi Improvement Trust.

(7) Chief Commissioner of Railways or a Member of Railway Board.

(8) Secretary or Joint Secretary, Ministry of Health.

(9) A Senior representative of the Ministry of Finance.

(10) Deputy Commissioner, Delhi.

(11) Joint Secretary, Ministry of Works, Production and Supply.

(12) A Senior representative of the Ministry of Rehabilitation.

(13) Representative of the Ministry of Home Affairs.

(14) Representative of Defence Ministry.

(15) Chief Engineer, Central P.W.D. (Secretary).

(b) and (c). The Central Co-ordination Committee coordinates the work of its various sub-committees, which have been set up to examine the details of the development plans for Delhi. The Committee is not required to submit reports, but regular minutes are kept of its meetings.

(d) The main idea is to have a green belt of open land, about a mile deep, around Greater Delhi within which will be confined the development of the town. Beyond the Green Belt, it is proposed to have satellite towns. The planning of Greater Delhi will, among other things, consist of the development of a network of roads, improvement of the transport system, clearance of slums, construction of houses, a rational distribution of light industries and the improvement of the electricity, water supply and sewerage systems.

Shri Jnani Ram: May I know what are the different sub-committees constituted under this Central Co-ordination Committee?

Shri Buragohain: There are altogether seven sub-committees and if my hon. friend wants I can give their names.

Shri Krishnanand Rai: May I know whether the financial estimate of this plan has been finalised and if so, what will be the amount of money that is going to be spent on it?

Shri Buragohain: The plans are being executed and further plans are in hand and the money for it is provided from year to year.

Shri Brajeshwar Prasad: By what time is the plan expected to be implemented?

The Minister of Works, Production and Supply (Shri Gadgil): There is no particular time limit fixed but from year to year whatever grants are available are utilised in the implementation of the plan both by the Centre and the local administration of Delhi.

Shri Shiva Rao: In implementing this plan, will this Committee take into account the recommendation of the Delhi Improvement Trust Enquiry Committee?

Shri Gadgil: The recommendations of the Delhi Improvement Trust Enquiry Committee will certainly be taken into consideration.

Shri Amolakh Chand: What is the approximate boundary of the Greater Delhi which is being planned?

Shri Buragohain: The boundary will be a radius of about three to four miles and beyond that there will be a green belt about one mile deep.

Shri T. N. Singh: What is the area of both cultivable and agricultural land which is going to be acquired for this scheme?

Shri Buragohain: There is no question of acquisition involved. The green belt will be more or less in part open land and part will be covered by vegetation.

Shri M. Naik: May I know whether in the plans for Greater Delhi the establishment of heavy industries will be scrupulously excluded?

Shri Buragohain: I have already stated that only light industries will be allowed within Greater Delhi. With regard to heavy industries they must be located somewhere beyond the City and an area near Ghaziabad is considered suitable for the purpose.

Shri Ghule: May I know whether the land over which the Government intend to create a green belt around Delhi is government-owned land?

Shri Buragohain: Merely a notification will be issued with regard to the green belt area. That is all.

Shri Ghule: Will it not be acquired?

Shri Buragohain: I do not think it will be necessary to acquire that area.

Shri Sivan Pillay: On a point of information, Sir, it is the rule that no more than three questions by the same Member can be asked but I find that there are more than three questions in the name of Mr. S. N. Das.

Mr. Deputy-Speaker: The limit will not be permitted to be exceeded, though they may be printed here.

EXPORT TRADE IN CLOTH

*1196. **Shri S. N. Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that the export trade in cloth has received a set-back since the decision made regarding the Japanese Peace Treaty;

(b) whether orders placed by various countries in South East Asia have been cancelled; and

(c) if so, for what quantities orders were placed by these countries and to what extent orders were cancelled?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) It is too early to assess the effect on the export of Indian cloth following the negotiations for the Japanese Peace Treaty.

(b) No.

(c) Does not arise.

Shri S. N. Das: May I know whether any of these countries to which our cloth is being exported have been importing Japanese cloth also?

Shri Karmarkar: I should like to have notice.

Khwaja Inait Ullah: May I know whether Government will allow the import of cloth from Japan?

Shri Karmarkar: There is no idea of importing any cloth at present—our requirements are fulfilled by our own production.

EXPORT LICENSES FOR OILS AND OILSEEDS

*1197. **Shri Lakshmanan:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the principle of "established shippers" has been adopted by Government in the matter of granting export licences for oils and oilseeds;

(b) the basic year that has been chosen for the determination of this principle; and

(c) what percentage of the export during this basic period was handled by foreign firms and what percentage by Indian firms?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) The basic period for determination of past exports of groundnut, linseed, kardi-seed, niger seed and their oils and castor seed is three financial years 1948-49, 1949-50 and 1950-51. Exporters are free to choose the best year of their exports out of these three years. As regards castor oil, the basic period is the financial year 1950-51 (April 1950—March 1951) but the question of broad-basing the basic period as in the case of the other oils is under consideration.

(c) About 30 per cent. of exports during the basic period were handled by foreign firms and about 70 per cent. by Indian firms.

Shri Lakshmanan: May I know what was the licensing policy adopted during this basic period? Whether any one particular policy was adopted or whether it was frequently changed?

Shri Karmarkar: Prior to the change of the policy, the policy adopted was what was known as the "First come, first serve" policy. We found there was an unusual scramble and people were anxious to export and therefore the exporters could not obtain proper prices. With a view to stabilise our trade in this regard we now have started the established-shippers and the new-comers basis which we hope will stabilise prices as well as the trade.

Shri T. N. Singh: Does the new export duty imposed on oil and oilseeds affect the quantity of export as compared to that normally made in the previous corresponding quarter?

Shri Karmarkar: Sir, this question is about the basis of export and my friend is on the export duty.

Mr. Deputy-Speaker: It does not arise.

STARCH INDUSTRY

*1198. **Shri Lakshmanan:** (a) Will the Minister of Commerce and Industry be pleased to state whether the Indian Tariff Board has recommended the enhancement of the protective duty on Starch Industry?

(b) What is the total requirement of starch for textile purposes and how much of these requirements is met by internal production?

(c) What are the comparative prices of indigenous starch and imported starch?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) No, Sir.

(b) The annual requirement of starch for textile purposes is estimated at 45,000 tons. The rated capacity of the indigenous industry is 58,000 tons but raw materials have not hitherto been available in adequate quantities. On the basis of the quantities of those raw materials which have been licensed for import during the current year, the total indigenous production of starch is estimated at about 32,000 tons.

(c) The ceiling for indigenous maize starch powder is fixed at Rs. 64 per cwt. while the sale price of imported starch varies from Rs. 65 to Rs. 68 per cwt.

Shri Lakshmanan: May I know what are the main substances from which starch is manufactured in India?

Shri Karmarkar: Maize.

Shri Lakshmanan: In view of the difficult food situation, may I know whether Government will consider the advisability of importing starch from foreign countries rather than utilise our raw materials for starch-making?

Shri Karmarkar: As I said before the development of this industry depends directly upon the import of maize, but I may tell my friend that to the extent to which maize could be imported for that industry this would be allowed—if there is any shortfall of starch we shall certainly import to the extent required.

Shri Krishnanand Rai: May I know whether this industry has applied for protective duty?

Shri Karmarkar: I think, Sir, they did apply and we are awaiting the Board's report on that point.

Mr. Deputy-Speaker: The main question asks whether the Indian Tariff Board has recommended the enhancement of the protective duty on starch industry. Therefore, it assumes that it is already a protected industry and it only wants an enhancement of that protection. The hon. Minister may look into it.

Shri Karmarkar: I will look into it.

Shri Sidhva: May I know whether the Tariff Board has suggested any alternative raw material instead of maize for the manufacture of starch and, if so, may I know what decision Government has taken on that recommendation?

Shri Karmarkar: I think the hon. Member knows very well that we do not disclose the findings of the Tariff Board until we have come to a decision.

Shri M. Naik: May I know how much of available maize in India is diverted from food purposes to the manufacture of starch?

Shri Karmarkar: No raw material has been diverted from our food resources. We have allowed the manufacturers to import their own raw material.

Shri Radhelal Vyas: What is the number of starch factories in India and how many of them have stopped working for want of raw material?

Shri Karmarkar: I should like to have notice as to the number of starch factories. As regards the latter part of the question, as soon as the All India Starch Manufacturers Association indicated their desire to commence manufacture of starch we have given them all possible encouragement by way of stoppage of further import of starch and by way of facilitating import of the raw material they required.

Shri A. C. Guha: From what countries India is now importing starch?

Shri Karmarkar: I want notice for that.

Shri Sivan Pillay: May I know whether starch is not produced from tapioca?

Shri Karmarkar: Yes, it is produced from tapioca but these factories are restricting themselves to maize starch in the first instance.

COIR INDUSTRY

*1199. **Shri Alexander:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the Travancore-Cochin Government have submitted a scheme for the organisation of the coir industry on a cooperative basis; if so, the main features of the scheme;

(b) the financial help asked for by the Travancore-Cochin Government and the amount granted, if any;

(c) the progress of the scheme made so far; and

(d) the value of export of coir goods in 1948, 1949, 1950 and 1951 to (i) Sterling Area and (ii) Dollar Area?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir. The scheme envisages bringing the numerous small producers within the fold of about 120 Primary coir co-operative societies at the top within a period of five years.

(b) The Travancore-Cochin Government have asked for a grant of Rs. 32 lakhs in instalments over a period of five years. The request is under consideration.

(c) and (d). Necessary statements are laid on the Table of the House. [See Appendix VII, annexure No. 27.]

Shri Alexander: May I know when this grant referred to in the statement is to be paid to the State Government?

Shri Karmarkar: As soon as we determine that it should be paid.

Shri Alexander: May I know whether this is mainly a cottage industry and, if so, has Government any statistics to show how many people are engaged in it?

Shri Karmarkar: I understand roughly about six lakhs of people are dependent on this cottage industry of coir-making.

Shri Alexander: May I know whether there is any complaint as to the qualities of coir yarn and goods exported and, if so, are Government considering any means of standardization?

Shri Karmarkar: If my friend puts down a separate question on export and standardization I shall be very happy to answer it.

Shri Sidhva: What is the total production of the coir industry and the total requirements of the country?

Shri Karmarkar: I have got the export figures but the production figures and requirements are not with me just now.

Shri Alexander: May I know whether Government have any statistics to show the internal consumption of coir yarn and goods?

Shri Karmarkar: I have not got that information handy.

Shri Sidhva: May I know whether this export quantity is surplus to our own requirements?

Shri Karmarkar: Obviously it is surplus to our requirements. As my friend very well knows, this particular commodity is a good earner of foreign exchange and also of dollar exchange. Therefore we are promoting this industry both in the interest of internal consumption as well as our foreign exchange.

Shri A. C. Guha: Is the coir-making industry confined only to Travancore-Cochin or is it found in any other part of India?

Shri Karmarkar: Largely in Travancore-Cochin.

Shri S. C. Samanta: Is it a fact that the coir industry has come under the purview of the Indian Central Coconut Committee and, if so, whether grants will be given through this Committee?

Shri Karmarkar: I will look into that.

STRUCTURAL STEEL AND TEXTILES
(STANDARDISATION)

*1200. **Shri A. C. Guha:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the Indian Standards Institution has taken any steps for standardisation of structural steel and of textiles;

(b) if so, (i) the results so far achieved; (ii) the qualitative and economic benefits expected to be gained; and

(c) whether there has been any opposition or lack of co-operation from the industries concerned in giving effect to the standardisation scheme of the Institution?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The Indian Standards Institution has published one standard on structural steel together with three other related standards. It has also published nine standards relating to products of steel and has several other standards under consideration. As regards Textiles, the

Institution has so far published eleven standards; 21 others are nearing completion and 113 others are under preparation.

(b) (i) The result so far achieved by way of preparation of standards has been indicated in the reply to part (a). The Institution is now making efforts to secure the implementation of these standards by industry, Government purchasing departments and other consumers.

(ii) The value of standards to producers, consumers, the trade and technologists is not capable of precise estimation in terms of economic benefits derived. Rationalisation of processes of manufacture; improved control over processes, materials and labour; elimination of waste of material and effort; higher rate of production; reduction of cost of manufacture; reduction of inventories of stocks of raw materials and products; ultimate increase in sales and profits; these are some of the advantages to be expected from standardisation.

(c) The Indian Standards Institution has received the co-operation and support of all the major sections of Indian industry; there has been no opposition to standardisation from any quarter. Certain textile interests in Bombay have, however, been hesitant as regards the standardisation of their own products.

Shri A. C. Guha: Is it not true that the Indian Standards Institution in its report has said that it has not received the required cooperation from the industries?

Shri Karmarkar: I should not think so, because this information is based on the information supplied by the I.S.I.

Shri A. C. Guha: The statement that I have made is perhaps from the report of the I.S.I. itself.

Shri Karmarkar: Then we shall invite the I.S.I.'s attention to that and see how that and this are consistent with each other.

COTTON FROM U.S.A.

*1201. **Shri M. Naik:** (a) Will the Minister of Commerce and Industry be pleased to state what is the average annual import of cotton into India from U.S.A. as compared with that from other exporting countries?

(b) Is it a fact that U.S.A. has decided to push up cotton prices and if so, to what extent?

(c) What is the reaction of India to this proposal by U.S.A.?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Comparative figures of average imports for the three year period 1948-49 to 1950-51 are as follows:

U.S.A.	..	2,05,259	bales of 400 lbs.
Other countries		7,93,742

(b) Government are not aware of any such decision.

(c) The matter will be considered if and when any such decision is taken by the U.S. Government.

Shri M. Naik: Is it a fact that the U.S. Government is adopting a policy of stock piling so that prices may not go down?

Shri Karmarkar: I am afraid the position is the other way about. They have begun a policy of stock releasing so that prices are going down.

Dr. Deshmukh: What are the percentages by which prices have gone down in U.S.A.?

Shri Karmarkar: On 2nd January 1951 the average price per candy of 784 lbs. was Rs. 2,230. On 25th August 1951, the price was Rs. 1,675.

Dr. Deshmukh: May I know how much of the cotton that is proposed to be obtained from U.S.A. will be obtained through Government agencies and private parties respectively?

Shri Karmarkar: Speaking subject to correction, the method always is that Government permits cotton to come in, but it is always the private parties that purchase the cotton.

Shri M. Naik: How do the prices in America compare with the prices in other countries?

Shri Karmarkar: I shall give the comparative figures, which are as follows:

Pakistan	2-1-51	Rs. 2,356
	To-day	Rs. 2,460
Egypt	2-1-51	Rs. 3,461
	To-day	Rs. 3,121
E. Africa	2-1-51	Rs. 2,210
	To-day	Same

Shri Krishnanand Rai: Is it a fact that India is demanding from the U.S.A. more cotton than she is ready to release?

Shri Karmarkar: That was the position last year. This year we are likely to get more cotton than we need.

Kaka Bhagwant Roy: May I know whether India is exporting some cotton to America?

Shri Karmarkar: It used to before, but we have now restricted the export to unusable cotton.

Shri M. Naik: May I know if there is any international control over cotton prices?

Shri Karmarkar: No, Sir.

INDO-PAKISTAN TRADE

*1202. **Shri M. Naik:** (a) Will the Minister of Commerce and Industry be pleased to state whether the recent tension in Indo-Pakistan relation has in any way affected the general trade between the two countries?

(b) If so, in what way and to what extent?

(c) Is there any contemplation on the part of Government to bring about suitable modifications in the Trade Pact last entered into?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) No, Sir.

(b) Does not arise.

(c) No, Sir.

Shri M. Naik: May I know whether the import of articles in recent times is not keeping up to the schedule?

Shri Karmarkar: That is a fact, but by and large imports have been coming. For instance, in respect of raw jute as against 10 lakh bales which were expected by the end of June, we have already received 8,42,386 bales. Out of 8 lakhs which was to be received later on, we have received 2,98,130 bales.

Shri Sidhva: What is the position regarding import of cotton from Pakistan? Is it keeping up to the schedule?

Shri Karmarkar: We are not bound by the agreement in respect of cotton. Our imports of cotton have been negligible largely because the prices are absolutely unfavourable to us.

Shri M. Naik: Has State trading and trading by private sectors been affected?

Shri Karmarkar: There is no State trading in respect of these purchases. As regards imports, I have said what is the position in regard to raw jute which is one of the important items.

Shri Ghule: May I know whether the quantity of cement and coal which was to be exported to Pakistan according to the agreement has been already exported?

Shri Karmarkar: I should like to have notice for that.

Shri A. C. Guha: Recently there were some disagreements regarding figures between the Government of India and the Government of Pakistan in regard to supply of jute and coal and Pakistan Government did not accept the figures of the Government of India. May I know whether since then the two Governments have reached some agreed figure?

Shri Karmarkar: I am not aware of any disagreement. So far as we are concerned, there is absolutely no disagreement. We keep to our figures and they are correct. If some newspaper report has appeared, we are not responsible.

STEEL QUOTA FOR PUNJAB

*1204. **Sardar Hukam Singh:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether Government are aware that the majority of manufacturers—registered and unregistered,—in several towns in Punjab (I) are not getting their steel quotas, and are compelled to buy from the local market at very high rates, while others who can make no use of steel are regularly receiving good supplies and are making profits by selling the steel;

(b) whether the Punjab Government have received any complaints from genuine manufacturers; and

(c) if so, what steps are proposed to be taken in regard to this matter?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) to (c). The Government of India are aware that, like the other States, the Punjab is also not getting adequate steel to meet the full demands of the fabricators. The Government, however, have no information about any large-scale unauthorised sales and purchases of steel in the Punjab. The Punjab Government have reported that they have received complaints regarding non-allotment of steel but that they cannot do much in the matter because of inadequacy of quotas placed at their disposal. The State Government have taken every possible measure to ensure that steel allotted by them to the fabricators is not sold in the black-market.

Sardar Hukam Singh: May I know the quantity of steel that was allotted to Punjab during the last six months?

Shri Karmarkar: The quarterly quota is 1522.5 tons. I presume this quota should have been supplied per quarter to Punjab.

Sardar Hukam Singh: Have Government any information as to how this quota was distributed?

Shri Karmarkar: Yes. Non-agricultural quota 422.5 tons; Displaced fabricators' quota 700 tons; Harijans' quota 200 tons, Small scale and cottage industries including cycle parts and manufacturers' quota 200 tons; Total 1522.5 tons.

Sardar Hukam Singh: Has any scrutiny been made as to how many bogus firms have received steel quotas in Punjab?

Shri Karmarkar: We have not made any; nor have we received any specific complaints. If specific complaints are received, we shall forward them to the State Government for enquiry.

Sardar Hukam Singh: What happened to those firms who were challanned for receiving false quotas?

Shri Karmarkar: Firms that have been challanned must have been challanned on information received. We have no information nor have any cases been decided by us.

Mr. Deputy-Speaker: Those questions may be asked through different means. Punjab is now under the President's rule.

Shri M. Naik: Has any State been satisfied in respect of its steel demands?

Shri Karmarkar: There is no State whose full steel requirements have been satisfied. There is dissatisfaction everywhere.

Sardar Hukam Singh: Are Government prepared to appoint an Enquiry Committee to find out which firms are taking quotas to which they are not entitled?

Shri Karmarkar: If there is a substantial case put forward for such an enquiry, we shall direct the State Government to conduct one.

SUPPLY OF TIMBER TO PAKISTAN

*1205. **Sardar Hukam Singh:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether India supplied Deodar timber to Pakistan during the year 1950;

(b) if so, how much it was;

(c) the price charged from Pakistan;

(d) how this price compared with the price obtaining at Pathankot during the period of supply; and

(e) what the ratio of the value of Indian rupee was as compared with that of Pakistan rupee there?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) A quantity of 13,724 tons was exported during the year 1950.

(c) The trade was allowed through commercial channels, and it is understood that exporters charged a rate varying from Rs. 6 to Rs. 6/8/- per c.f.t. (excluding railway freight, insurance charges, etc.) during the various periods of supply.

(d) The price of deodar timber at Pathankot during those periods was about Rs. 5 to Rs. 5/8/- per c.f.t.

(e) For the purpose of export of timber to Pakistan in 1950, the question of ratio of Indian and Pakistan rupees did not arise, as transactions were made in terms of the Indian rupee.

Sardar Hukam Singh: May I know whether this timber is being supplied even now, or it has stopped?

Shri Karmarkar: I should like to have notice of that question.

POWER ALCOHOL

*1206. **Dr. Deshmukh:** (a) Will the Minister of Commerce and Industry be pleased to state the production of power alcohol in each of the years 1948-49, 1949-50 and 1950-51 and up to the 31st July, 1951?

(b) Is there any possibility of greater production in the current year, and if so, how much?

(c) At what rate was it sold in each of the above years and is the price controlled by Government?

(d) Are there any rules for mixing it with petrol or for its utilization generally?

(e) Do Government propose to give facilities for increased production and remove difficulties in the way of the factories wishing to produce power alcohol?

(f) Is there any excise duty charged and if so, what has been the rate since 1949-50 every year?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a), (c) and (f). A statement is laid on the Table of the House. [See Appendix VII, annexure No. 28.]

(b) Yes, Sir. Production during 1951-52 is expected to be 60 lakh gallons.

(d) Yes, Sir.

(e) All possible facilities are given and efforts made to remove difficulties in the way of increased production.

The statement is a short one and I should like to indicate that during 1948-49 the production was 37,92,000 gallons; in 1950-51 it was 47,24,000 gallons and in 1951 (April to July) it has been 18,68,000 gallons.

Dr. Deshmukh: Is it a fact that most of the power alcohol is produced by sugar factories only? Is it produced through any other means?

Shri Karmarkar: My information is that it is produced only by sugar factories.

Dr. Deshmukh: What is the number of sugar factories which are producing power alcohol?

Shri Karmarkar: I should like to have notice of that question.

Dr. Deshmukh: Is there any proposal under consideration of any other sugar factories to produce power alcohol and if so, is Government facilitating their efforts?

Shri Karmarkar: We shall facilitate all efforts of production of power alcohol.

Shri Amolakh Chand: May I know if the production of power alcohol is on the increase or on the decrease?

Shri Karmarkar: The figures that I have read out shows that it is on the increase.

Shri Amolakh Chand: In Uttar Pradesh particularly?

Shri Karmarkar: I have only the break up of installed capacity and production. Installed capacity is 87,000 gallons; expected production is 79,000 gallons.

Shri Sidhva: What about actual production?

Shri Karmarkar: I should like to have notice.

Shri Sarangdhar Das: May I know whether the factories produce by-products like fertilisers, after distilling the alcohol?

Shri Karmarkar: I should like to find that out.

Dr. Deshmukh: Could the hon. Minister tell us what proportion does the actual production bear to the installed capacity?

Shri Karmarkar: Roughly the actual production is about 85 to 90 per cent. of the installed capacity.

CASHEW KERNELS (EXPORT)

*1207. **Shri Iyyunni:** (a) Will the Minister of Commerce and Industry be pleased to state the quantity of cashew kernels exported in the year 1950-51?

(b) Which are the States where cashew nuts are produced and cashew kernels prepared to be exported outside?

(c) What is the total acreage of cashew cultivation, State-wise?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) 25,176 tons.

(b) Cashew nuts are chiefly produced in the States of Bombay, Madras and Travancore-Cochin, where they are processed for export. There is also some production in the States of West Bengal, Orissa and Mysore.

(c) This information is not available.

Shri Rathnaswamy: May I know whether cashew kernels are exported to dollar areas and if so what are the dollar earnings on this account?

Shri Karmarkar: It is mainly a dollar earning item of export. The total export in 1948-49 was for Rs. 4 crores 92 lakhs; in 1950-51 it was Rs. 8 crores 46 lakhs.

Shri Lakshmanan: May I know whether Government propose to establish a Cashewnut Committee and if so when will it materialise?

Shri Karmarkar: It is not our idea at present.

Shri Iyyunni: May I know whether the production of cashew nuts is on the increase or on the decrease?

Shri Karmarkar: The production is on the increase.

Shri Alexander: May I know what is the total production of cashew nuts?

Shri Karmarkar: I have not got the figures.

Shri Karunakara Menon: May I know, whether besides being used as an item of food, the other uses to which cashew nuts are put?

Shri Karmarkar: So far as I know at present cashew nuts are used for eating; I do not know whether it is used for anything else.

Shri Karunakara Menon: If it is used for the purpose of industries, instead of exporting them, will Government consider the advisability of starting those industries for which the cashew-nuts can be used?

Mr. Deputy-Speaker: It is a nebulous question.

TRADE AGREEMENT WITH IRAQ

*1208. **Shri S. C. Samanta:** Will the Minister of Commerce and Industry be pleased to state:

(a) the changes made by the new Trade Agreement made between India and Iraq;

(b) when this Agreement was made and how long it will last;

(c) whether any time limit has been fixed for export and import of commodities to and from both the countries; and

(d) if so, what they are?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) There being no earlier Agreement with Iraq, the question of changes does not arise.

(b) The Agreement was signed at New Delhi on the 29th May, 1951 and will remain in force up to the 31st December, 1951. It is renewable thereafter for such period as may be mutually agreed upon.

(c) Yes. The time limit is the period of validity of the Agreement.

(d) The articles to be imported from Iraq are: dates, wheat, rice, millet and barley. The principal commodities to be exported from India are: cotton piecegoods, Jute manufactures, tea, coffee, oil seeds, rubber goods, electrical materials, drugs and medicines, sports goods, coke, etc.

Shri S. C. Samanta: May I know whether cotton piecegoods include cotton thread and yarn also?

Shri Karmarkar: Piecegoods will not include thread and yarn. As to whether thread and yarn are exported I shall have to find out.

Shri S. C. Samanta: May I know whether in the agreement besides provision for exchange of essential commodities, there is provision for levy of customs duty, etc.?

Shri Karmarkar: No, Sir.

श्री जांगड़े : क्या माननीय मंत्री महोदय बतलायेंगे कि गत तीन वर्षों में भारत ने ईराक से पेट्रोल का आयात किया है ?

[**Shri Jangde:** Will the hon. Minister please state whether during the last three years, India has imported any petrol from Iraq?]

Shri Karmarkar: No, Sir. I have not got the information.

Shri S. C. Samanta: May I know the quantity of cereals that we receive by this agreement?

Shri Karmarkar: I should like to have notice.

Shri S. C. Samanta: May I know how the balance of trade between us and Iraq stands?

Shri Karmarkar: The balance of trade has been in our favour. In 1945-46 the balance was Rs. 2 crores 16 lakhs; in 1949-50 it was Rs. 57 lakhs 18 thousand.

Shri V. J. Gupta: Is there any agreement with Iraq for the import of oil from their proposed refineries?

Shri Karmarkar: The agreement was in respect of what exists and not in respect of what might exist.

HANDLOOM CLOTH (PRICE CONTROL)

*1209. **Shri Kshudiram Mahata:** Will the Minister of Commerce and Industry be pleased to refer to the answer given to my Starred Question No. 4341 asked on 21st May, 1951 and state whether Government have considered the question of any kind of control or check on the prices of handloom cloth and if so, what is the kind of control or check exercised?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): No. Imposition and enforcement of any price control on handloom cloths is not a practicable proposition, for the following reasons:

(i) the products of handloom industry are numerous and cannot be standardised; and

(ii) the handlooms numbering about 28 lakhs are spread over all parts of

the country from cities to far-off villages. Price control is also likely to hamper the development of this important cottage industry constituting the livelihood of a large number of weavers.

Shri Kshudiram Mahata: In view of the fact that yarn is supplied to weavers at controlled rates, what is the difficulty in the way of controlling the price of handloom cloth?

Shri Karmarkar: I am afraid my hon. friend does not appreciate the fact that we are not as a matter of fact supplying sufficient yarn to the handloom weavers.

Shri Kshudiram Mahata: We are supplying them yarn.

Mr. Deputy-Speaker: The hon. Member is entering into an argument.

Dr. Deshmukh: May I know whether it has come to the notice of Government that very often handloom weavers find it difficult to dispose of their goods in some seasons? Has any financial assistance been made available in any province to help the weavers to dispose of their stocks?

Shri Karmarkar: I should like to have notice of that question. But I understand that in Madras there are cooperative societies which render some help to them. Government will be prepared to give them all help.

Shri Sidhva: The hon. Minister stated that control, if imposed would impede production. May I know if the same argument would not apply to other commodities which are at present controlled?

Shri Karmarkar: We are particularly anxious in respect of this industry, because it is a cottage industry and as my friend will rightly appreciate it is an industry which requires all the protection we can give.

Shri Chattopadhyay: The hon. Minister stated that there is no control on the price of handloom cloth. Has it come to his notice that in some States the price of handloom cloth is fixed by Government?

Shri Karmarkar: I should like to know that; but so far as I know there is no such control.

Shri Sondhi: The hon. Minister stated that if handloom cloth is controlled, production would go down. How does it reconcile with the policy of Government with regard to other commodities?

Mr. Deputy Speaker: We are entering into an argument. Each case must be judged on its merits. If the hon. Member feels.....

Shri Sondhi: I should like to know what are the reasons.

Mr. Deputy-Speaker: I won't allow that question. This is not a debate on a resolution. Questions must be asked for eliciting information.

CONTROL ON PRODUCTION OF CLOTH

*1210. **Shri Kshudiram Mahata:** Will the Minister of Commerce and Industry be pleased to refer to the answer given to my Starred Question No. 4342 on the 21st May, 1951 and state the date when control was imposed upon Textile Mills for the production of *Dhoti*, *Saree* and printed cloth?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): Production control was imposed on the 8th February 1951 in the case of *dhoti* and *saree* and 23rd December, 1950 in the case of printed cloth.

Shri Kshudiram Mahata: May I know what sort of supervision is exercised to see whether the mills are following this restriction or not?

Shri Karmarkar: The Textile Commissioner verifies it month after month.

Shri Kshudiram Mahata: May I know whether any infringement of this restriction has so far been detected?

Shri Karmarkar: I should like to find that out.

BOUNDARY DEMARCATON

*1213. **Shri B. K. Das:** Will the Prime Minister be pleased to state:

(a) what progress has been made with regard to the work of demarcating the boundaries between West Bengal, Assam and Tripura on the one hand and East Bengal on the other;

(b) for what portions and distances finalities about the boundaries have been reached; and

(c) what exchange of territories has been effected as a result of the demarcation of the boundaries?

The Deputy Minister of External Affairs (Dr. Keskar): (a) West Bengal-East Bengal:

Out of a total length of 890 miles, a length of 104 miles has been demarcated, and in addition 265 miles have been reconnoitered.

Assam—East Bengal:

Aerial photography of the existing boundary pillars between Assam and East Bengal and of an area approximately 5 miles on either side of the boundary have been taken preliminary to demarcating the boundary on the ground.

Tripura—East Bengal:

The demarcation of this boundary has not yet commenced.

(b) Finality has been reached in respect of the following areas on the West—East Bengal boundary:

(i) 24-Parganas—Khulna—20 miles in one section.

(ii) Nadia—Kushtia—44 miles in two sections.

(iii) Malda—Rajshahi—10 miles in two sections.

(iv) Jalpaiguri—Dinajpur—30 miles in two sections.

(c) Following exchanges have taken place:

(1) Mauza Joynagar (Transferred to Pakistan).

(2) Mauza Betai and Bhatupara (Taken over by India).

(3) Part of Mauza Kurumdanga (Transferred to Pakistan).

(4) Part of Mauza Sultanpur (Taken over by India).

Shri B. K. Das: May I know whether there is any fresh dispute or divergence of opinion regarding the part of the boundary that has yet to be demarcated?

Dr. Keskar: I am not able to understand what the hon. Member means by fresh dispute. Regarding certain sections of the boundary we have not been able to come to any agreement. So the dispute is going on, and correspondence is going on in that respect.

Shri B. K. Das: What I wanted to know was that from time to time in the course of the demarcation work there have been divergences of opinion and disputes between the two Governments, and I was enquiring whether there are any disputes now before them.

Dr. Keskar: As I indicated in very great detail, only a certain part of the boundary has been definitely settled according to the satisfaction of both the Governments. As the demarcation is proceeding of the other sections of the boundaries, disputes are being settled. But quite a big part of the area is still under dispute.

Shri Barman: Is it a fact that there are many enclaves or pockets of the former Cooch-Bihar State within the

district of Rangpur and also certain parts of Rangpur district which have gone over to Pakistan, that there are certain enclaves in the State of Cooch-Bihar, and that there are no administrative arrangements on either side in the places that have gone over to the other side? May I know whether there was any talk at any time for exchange of these parts?

Dr. Keskar: I would require notice.

Shri B. K. Das: May I know whether it has been found in the course of the demarcation work that there is a divergence between the description given by Sir Cyril Radcliffe and the map that he has attached to the award?

Dr. Keskar: There has been a definite dispute regarding the interpretation of the award given by the Bagge Tribunal and we have not yet been able to come to an agreement with the Pakistan Government regarding the interpretation to be put on the award with respect to certain sections.

Shri B. K. Das: Which is the particular portion of the award of the Bagge Tribunal about which there is dispute?

Dr. Keskar: Regarding the Patharia hill forest area.

Shri B. K. Das: About the Eastern and Western Bengal boundaries, my question was about the Radcliffe award and I was asking whether there has been any divergence found between the description and the map attached.

Dr. Keskar: There is a dispute regarding certain sections of which aerial maps have been taken. I will not be able to indicate all the portions that are under dispute.

Shri M. Naik: In reply to part (c) of the question the hon. Minister stated that certain exchanges have taken place. May I know what are the comparative areas on this side of India and across the border?

Dr. Keskar: I indicated that exchanges of villages have taken place. One has been transferred to Pakistan, the second has been taken over by India, a part of the third village has been transferred to Pakistan, and a part of the fourth village has been taken over by India. So it is really an adjustment by exchange.

Shri A. C. Guha: Are we to understand that since 15th August 1947 these are the only territories that have been exchanged between the two Governments?

Dr. Keskar: Yes, Sir.

CENTRAL TRAINING INSTITUTE TRAINEES

*1214. **Shri S. C. Samanta:** Will the Minister of Labour be pleased to state:

(a) how many batches of trainees completed their courses at the Central Training Institute in the year 1950;

(b) whether all the successful trainees have been employed; and

(c) How many of them were nominees of State Governments from private industries?

The Minister of Labour (Shri Jagjivan Ram): (a) Three batches of trainees completed their courses of training at the Central Training Institute for Instructors, during the year 1950.

(b) As the trainees were deputed by the Central and State Governments, they went back to their previous employment after successfully completing the course.

(c) Among those who successfully completed training during 1950, 21 were nominees of State Governments and none of private industry.

Shri S. C. Samanta: May I know whether any training fee is charged from these trainees?

Shri Jagjivan Ram: No, because they are nominees of the Central and State Governments.

Shri S. C. Samanta: May I know whether any examination is being taken before they are admitted there?

Shri Jagjivan Ram: It is a refresher course. It is not a training centre for fresh comers or newcomers. It is for those persons who already hold some certificates and diplomas and are working as instructors either under the Central Government or under the Provincial Governments, and they are admitted there for the refresher course.

Shri S. C. Samanta: Is it not a fact that private candidates also are taken in and, if so, may I know on what basis they are taken?

Shri Jagjivan Ram: Private candidates who hold some certificates or diplomas in certain trades are admitted.

PRINTING TYPES (EXPORT)

*1215. **Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state what is the total production of type casting industry in India?

(b) How much is the total annual requirement?

(c) By the stoppage of export of printing types, will the local industry suffer?

(d) How do the prices of indigenous types compare with those of imported types?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) It is estimated at 2,000 tons per annum.

(b) Information is not available, as no statistics are maintained.

(c) Yes, it is likely that local industry may suffer. The matter is under consideration at the moment.

(d) Imported types are somewhat costlier.

Shri Sidhva: May I know whether application was made for export and it was not granted?

Shri Karmarkar: Exports have been banned now, and we are reconsidering the matter whether in the interests of the local industry exports should be permitted to any limited extent.

Mr. Deputy-Speaker: The Question-hour is over.

WRITTEN ANSWERS TO QUESTIONS

PROPERTY OF INDIANS IN JAPAN

*1186. **Shri Kesava Rao:** (a) Will the Minister of Commerce and Industry be pleased to state whether it is a fact that a commission has been appointed to find out the extent of damage caused to the property held by Indians in Japan during the last war?

(b) What are the findings of this commission?

(c) Is it a fact that Japan will be asked to pay compensation for such damage?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) to (c). Information is being obtained and will be laid on the Table of the House in due course.

SCHEDULED CASTES PROVIDED WITH EMPLOYMENT

*1187. **Shri Kesava Rao:** Will the Minister of Labour be pleased to state the number of scheduled Caste candidates who secured employment through Employment Exchanges during the period 1st April, 1949 to 31st August, 1951?

The Minister of Labour (Shri Jagjivan Ram): 84,203 scheduled castes candidates were placed in employment

during the period 1st January 1950 to 31st August 1951. Figures for the period prior to January 1950 are not available.

INDIA'S MINISTER IN PORTUGAL

*1188. **Shri Kamath:** Will the Prime Minister be pleased to state:

(a) whether it is a fact that India's Minister to Portugal has been accredited to Belgium;

(b) if so, whether he is to hold concurrent or simultaneous charge, at Lisbon and Brussels;

(c) if not, whether it is proposed to appoint a new Minister to Portugal; and

(d) if our Mission in Lisbon is to be closed, the reasons therefor?

The Deputy Minister of External Affairs (Dr. Keskar): (a) India's former Minister to Portugal is now our Ambassador-designate to Belgium.

(b) No; he has handed over charge at Lisbon.

(c) and (d). It is not proposed to close down our Legation in Lisbon. It is at present under a *Charge d'Affaires*.

CLOTH AND YARN FOR THE ANDAMANS AND SIKKIM

*1203. **Shri J. N. Hazarika:** Will the Minister of Commerce and Industry be pleased to state:

(a) the monthly requirements of cloth and yarn for Andaman Island and Sikkim;

(b) the quantities of cloth and yarn allotted to the Andamans and Sikkim for the months of June, July, August and September, 1951; and

(c) what varieties of cloth are supplied to them and through what agencies?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The monthly quota of cloth of the Andamans and Sikkim are 20 bales and 90 bales respectively. No specific demand for supply of yarn every month has been made by these states.

(b) Quantities of cloth released to these States in June, July and August, 1951, are as under—

Month	Andamans	Sikkim
June	50 bales	157½ bales
July	43 bales	..
August	11 bales	..

Releases for September have not yet been made. Cloth supplies to Sikkim are made quarterly. No allotment of 272P.S.D.

yarn has been made to Sikkim during June—September 1951. An allotment of 6 bales was made to Andamans in August 1951 and no further allotment has been made.

(c) The varieties of cloth allotted to the Andamans are *dhoties*, *sarees*, voiles, long cloth, mulls, black cloth, shirting and drill and those allotted to Sikkim are drill, long cloth, flannel, *dhoties*, *sarees* and sheeting.

Cloth quota for Andamans is produced by M/s. Dawjee Dadabhoj and Co., Bombay, who are agents of Messrs. Akoojee Jadwet and Co., Port Blair, the nominees appointed for the purpose by the Chief Commissioner, Port Blair.

Sikkim's cloth quota for the quarter ending 30th June 1951 was procured by Messrs. Kesherdeo Mangeram, Bombay, commission agents of Messrs. Banwarilal Nemchand, Gangtok, who were the nominees appointed by the Political Officer in Sikkim, Gangtok, for the purpose. The nominees and commission agents for the quarter ending the 30th September 1951 are Messrs. J. and B., Gangtok, and Messrs. Chaturbhujdas Karnani, Bombay, respectively.

CORRUGATED IRON SHEETS

*1211. **Shri J. N. Hazarika:** Will the Minister of Commerce and Industry be pleased to state:

(a) the annual production of corrugated Iron Sheets in India during the last four years;

(b) the total quantity of corrugated Iron Sheets imported, if any;

(c) the quotas annually allotted to each of the Part A and Part B States; and

(d) the actual requirement of corrugated Iron Sheets in the country?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) and (b). Two statements are laid on the Table of the House. [See Appendix VII, annexure No. 29.]

(c) Information is not available.

(d) 1,20,000 tons (Estimated).

CEMENT FACTORIES

*1212. **Shri J. N. Hazarika:** Will the Minister of Commerce and Industry be pleased to state:

(a) how many of the cement factories are subsidised by the Government of India and by the State Governments and with what amounts; and

(b) the total quantity of cement exported, if any?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) None, Sir.

(b) 40,728 tons were exported during period April, 1950 to July, 1951.

TIBETAN WOOL

*1216. Shri A. C. Guha: Will the Minister of Commerce and Industry be pleased to state:

(a) whether after the Sino-Tibetan treaty, the bulk of Tibetan wool is being diverted to China; and

(b) if so, the steps, if any, taken by Government to ensure that our supply of Tibetan wool is not curtailed?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Government have no information on the subject.

(b) Does not arise.

INDIAN STANDARDS INSTITUTION

*1217. Shri S. N. Das: Will the Minister of Commerce and Industry be pleased to state:

(a) what was the total income of the Indian Standards Institution from various sources including Government grants during 1950-51 giving separate figures;

(b) the total income of the Institution from different resources during the current year up to the 31st August, 1951; and

(c) the new activities of the Institution undertaken during the current year?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) and (b). I lay on the Table a statement containing the information asked for. [See Appendix VII, annexure No. 30.]

(c) I lay on the Table a list of new subjects accepted for standardization during the current year by the three main existing divisions of the Institution namely, the Engineering, the Textiles and the Chemicals Divisions. [See Appendix VII, annexure No. 31.]

COTTAGE INDUSTRIES

*1218. Shri S. N. Das: (a) Will the Minister of Commerce and Industry be pleased to state what are the conclusions arrived at by the consideration of the report of the survey made of cottage industries in the Aligarh Harduaganj area?

(b) What are the important features observed about the potentialities of different cottage industries?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The Report is under consideration.

(b) The Report is a compilation of statistical information. The potentialities of different cottage industries in the area surveyed will be worked out after scrutiny of the Report.

HASTINAPUR COLONY

*1219. Shri Amolakh Chand: Will the Minister of Rehabilitation be pleased to state:

(a) the number of displaced persons settled in the newly constructed colony at Hastinapur, District Meerut, U.P.;

(b) the number of new houses constructed in the colony;

(c) the number of new factories or power plants installed; and

(d) the total expenditure incurred by the Government of India on the development of this new colony?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) to (c). Hastinapur township is in the process of development. 100 houses have been completed and 300 are under construction. The first batch of displaced persons will be moved to this township shortly. An electric generating plant has been installed and it has been decided to invite applications from displaced industrialists as well as others for starting industries.

(d) Rs. 3 lakhs upto 31st July, 1951.

SALE OF EVACUEE PROPERTIES IN PAKISTAN

*1220. Shri Amolakh Chand: Will the Minister of Rehabilitation be pleased to state:

(a) whether it is a fact that Custodians of Evacuee Property in Pakistan are confirming sales on firms' best grounds and declaring ownership to property even on a fractional consideration of sale money;

(b) whether in view of the loss caused to Indian Nationals Government have taken any steps to bring to the notice of the Government of Pakistan to stop the practice; and

(c) if so, with what result?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) Complaints to this effect have been received by the Government of India.

(b) Government took up this question with the Government of Pakistan at the Indo-Pakistan Conference of June 1950 and have also forwarded to that Government lists of cases embodying the objections of the owners of the

property to the transfers made or being made by Custodians in West Pakistan.

(c) The Government of Pakistan's view in the matter is that such complaints can be looked into effectively only if the interested parties appear on the dates fixed for hearings by Pakistan Custodians and place their view-point before them in person.

LOANS AND ALLOWANCES TO DISPLACED PERSONS

*1221. **Shri A. Joseph:** (a) Will the Minister of Rehabilitation be pleased to state the number of displaced persons who received loans and allowances from Vijayawada camp?

(b) How many applications for loan and allowances are still under consideration upto 30th August, 1951?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) and (b). The information is being obtained and will be laid on the Table of the House in due course.

TEXTILES EXPORT LICENCES

*1222. **Babu Ramnarayan Singh:** (a) Will the Minister of Commerce and Industry be pleased to state whether it is the Government policy to grant export licences for Textile goods to individuals as well?

(b) What are the qualifications which an individual must possess to entitle him to the grant of such export licences?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes.

(b) Quotas are granted on the basis of exports made by individual exporters during 1948, 1949 or January-June 1950, it being left to the exporter to choose his basic period. The quota due to an exporter on the basis of his past exports should be not less than 5,000 yards. Exporters whose share comes to less than 5,000 yards are not granted any quotas. For Pakistan, however, there was a separate quota of 20 million yards for newcomers. The qualification for a new-comer is that he should be holding dealers' licence for cloth.

TEXTILE EXPORT LICENSING POLICY

*1223. **Shri S. N. Sinha:** (a) Will the Minister of Commerce and Industry be pleased to state what is the Government's latest policy for the grant of export licences for textile goods?

(b) What is the value of licences so far issued during this year?

(c) Will the Government state the number of the mills which have been granted licences of the value of at least a lakh of rupees or more or of a lakh of yards or more and their productions during the year?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Licences for this year have been granted to established exporters on the basis of their past exports and to mills on the basis of their packing for export last year. Provision has also been made for the grant of licences to top class mills, post-war mills and uneconomic mills. For Pakistan export licences were also issued to new-comers.

(b) Export licences for cotton piece-goods are not issued in terms of value but in terms of yardage. The total quantity licensed is about 244 million yards.

(c) Information will be collected and placed on the Table of the House.

LEATHER FOOTWEAR (EXPORT)

*1224. **Shri S. N. Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) the total quantity and value of leather footwear exported from India during the years 1949-50 and 1950-51;

(b) to which countries this has been exported; and

(c) whether the volume of export to any of these countries has decreased?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) and (b). A statement is placed on the Table of the House. [See Appendix VII, annexure No. 32.]

(c) Yes, Sir.

DEVELOPMENT PLANS FOR VINDHYA PRADESH

*1225. **Shri Dwivedi:** Will the Prime Minister be pleased to state:

(a) whether there is any Planning Committee in Vindhya Pradesh;

(b) if so, the names of the personnel constituting it;

(c) if there is no such Committee, who is responsible for submitting the two-year and five-year development plans to the Planning Commission involving a total expenditure of Rupees Four Crores;

(d) whether Government propose to place on the Table of the House a copy of the proposals from Vindhya Pradesh;

(e) whether the proposals have received the consideration of the Planning Commission;

(f) if so, the recommendations of the Planning Commission; and

(g) when these proposals are likely to be translated into action?

The Parliamentary Secretary to the Prime Minister (Shri Satish Chandra): (a) to (c). There is an official Planning Committee in Vindhya Pradesh which is presided over by the Chief Commissioner. A statement giving the names of the members of the Committee is laid on the Table of the House. [See Appendix VII, annexure No. 33.]

(d) A short statement explaining the principal features of the draft plan for Vindhya Pradesh is laid on the Table of the House [See Appendix VII, annexure No. 34.]

(e) and (f). The Planning Commission has approved the proposals contained in the plan.

(g) That part of the plan which consists of current schemes may be said to be already in operation. Action to implement the plan more fully from the next year has been initiated.

EXPORT OF MANGANESE ORE

***1226. Shri Kamath:** Will the Minister of Commerce and Industry be pleased to state:

(a) the quantity of high grade manganese ore that will be permitted to be exported during 1951-52, and to which countries;

(b) the quantity of low grade manganese ore permitted for export during the same period;

(c) whether it is a fact that sales of manganese ore to foreign countries are finalized by individuals or firms having their offices in foreign countries;

(d) which company is the largest producer of manganese ore in India, and for how much of the annual produce here that company is responsible;

(e) whether the disposal of the output of this company is controlled by Government at any stage and if so, how;

(f) whether the sale of manganese ore by Indian firms in favour of their offices in foreign countries is also controlled by Government;

(g) whether it is a fact that owing to lack of control over sales of manganese ore to foreign countries, an annual loss of over 10 million dollars is incurred by India; and

(h) if so, what steps are being taken by Government to eliminate this loss?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) One million tons of high grade manganese ore will be allowed to be exported during the calendar year 1951. There is no destination control on its export.

(b) There is no quantitative restriction on the export of low grade manganese ore.

(c) It is understood that this practice obtains in the case of foreign firms working the mineral in India.

(d) The Central Provinces Manganese Ore Company Limited is the largest producer of manganese ore in India being responsible for 50-60 per cent. of the total Indian production.

(e) Except for the control over licensing of exports, there is no control over the disposal of out-put of any mining company.

(f) No, Sir, but export is controlled.

(g) Government are not aware of any such loss.

(h) Does not arise.

FIREWORKS AND CRACKERS (EXPORT)

***1227. Shri Kamath:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the Government of New Zealand or our Trade Commissioner in New Zealand has informed Government of the demand for fireworks and crackers in that country;

(b) the annual production of fireworks and crackers in India;

(c) the quantity available for export;

(d) whether any manufacturers or exporters have approached Government for the necessary permit or licences; and

(e) if so, which, and the quantity, together with the value thereof, to be exported in the near future?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) Figures of production of fireworks and crackers are not maintained. It is, however, estimated that at least 1,000 tons of fireworks are manufactured annually.

(c) There is generally no export of fireworks.

(d) Yes, Sir. There is no control over export of fireworks and crackers but they have approached Government for release of explosives for manufacture of fireworks and crackers.

(e) Messrs. The National Fireworks Factory, Sivakasi and Messrs. Modern Stores, Trichur (S. India) have applied for release of explosives for manufacture of fireworks and crackers. The quantities proposed to be exported have not been stated by them.

INCIDENTS ON WEST BENGAL BORDER

*1228. **Shri Rathnaswamy**: (a) Will the Prime Minister be pleased to state whether it is a fact that kidnapping of Indians, looting of property and dacoity have increased in recent times in the border areas of West Bengal?

(b) If so, how many Indians were kidnapped and what is the extent of damage to property suffered by Indians?

(c) Have any Pakistanis so far been arrested?

(d) Have any kidnapped Indians or stolen properties so far been recovered?

(e) What are the areas most affected?

(f) What are the measures taken to check effectively these border incidents?

The Deputy Minister of External Affairs (Dr. Keskar): (a) to (f). We have seen reports of sporadic raids in the border areas. Full details have been asked for from the Government of West Bengal, and will be laid on the Table of the House when they are received.

IMPORT LICENCES FOR CYCLES AND CYCLE PARTS

288. **Shri Syamnandan Sahaya**: (a) Will the Minister of Commerce and Industry be pleased to state what was the total value and quantity of licences granted for the import of:

(i) cycles;

(ii) cycle parts and accessories in the licencing period January-June, 1950, July-December, 1950 and January-June, 1951?

(b) What was the value and quantity of actual imports of:

(i) cycles; and

(ii) cycle parts and accessories, during the aforesaid periods, separately?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) and (b). A statement is laid on the Table of the House. [See Appendix VII, annexure No. 35.]

LICENCES TO INDO-BRITISH COMBINED CYCLE COMPANIES

289. **Shri Syamnandan Sahaya**: Will the Minister of Commerce and Industry be pleased to state what was the value and quantity of import licences granted to the Indo-British combined Cycle Companies in India during the licencing period (i) January-June, 1950; (ii) July-December, 1950; and (iii) January-June, 1951?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): A Statement is laid on the Table of the House.

STATEMENT

Name of the Company.	Value of import licences granted.		
	Jan-June 1950	July-Decr. 1950	Jan-June 1951
	Rs.	Rs.	Rs.
Messrs. T. I. Cyoles Ltd., Madras. . .		13,26,666/	..
Messrs. Sen Raleigh Industries of India Ltd., Asansol. . .		12,07,462/	4,07,093/
Messrs. Wearwell Co. of India, Jullundar.

IMPORT LICENCES FOR CYCLES

290. **Shri Syamnandan Sahaya**: (a) Will the Minister of Commerce and Industry be pleased to state whether there was any ceiling fixed for issue of import licences for (i) cycles and (ii) cycle parts and accessories during the periods January-June, 1950, June-December, 1950 and January-June, 1951 for total imports?

(b) If so, what were the amounts of the ceiling?

(c) Is there any ceiling fixed for the issue of licences for the period July-December, 1951?

(d) If so, what is the amount of the ceiling of total imports for these articles?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) to (d). Ceilings are fixed for these items every half-year, but it would not be in the public interest to disclose them.

GOVERNMENT HOUSING FACTORY

291. Shri Kamath: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether it is a fact that General Manager, Government Housing Factory, Delhi, recently advised the occupants of prefabricated "Alcrete" houses at various sites in Delhi, including those at Chawla and Mitraon occupied by the staff of the Directorate General Health Services, to vacate their quarters within 48 hours; and

(b) if so, when and on what grounds?

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

(a) Yes.

(b) At their meeting held on the 6th August, 1951, the Housing Factory Committee decided that the occupants of all Alcrete Houses built with panels made in the factory should be informed that the houses could not categorically be declared safe and hence they should be vacated within 48 hours. The necessary notices were issued on the 8th August, 1951.

SILVER IODIDE

292. Shri Jnani Ram: Will the Minister of Commerce and Industry be pleased to state:

(a) the quantity of Silver Iodide manufactured in India;

(b) the quantity imported; and

(c) the purposes for which it is used?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Manufacture of Silver Iodide has not so far been established in India.

(b) Information is not readily available, as silver iodide is not separately specified in the Import Trade Returns.

(c) It is used in the manufacture of photographic films and has also recently been found useful in some countries for creating artificial rain.

GOVERNMENT HOUSING FACTORY

293. Shri Kamath: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether it is a fact that the Standing Committee of Parliament for the Ministry of Health recently advised that the name of the Government Housing Factory be changed;

(b) if so, the new name decided upon by Government; and

(c) whether it has also been decided to transfer the factory to the Ministry of Natural Resources and Scientific Research?

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

(a) Yes, Sir.

(b) No final decision has yet been taken about the name of the Factory.

(c) The administration and control of the Factory has been transferred from the Ministry of Health to my Ministry.

GOVERNMENT HOUSING FACTORY, DELHI

294. Shri Kamath: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether Government have taken a decision on the future of the Government Housing Factory, Delhi, particularly with reference to its ownership, management, financing, the processes of production and the materials to be produced therein;

(b) if so, what that decision is with regard to each of these matters; and

(c) which Ministry will in future exercise administrative control over the Factory?

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

(a) and (b). It has been decided to enter into an agreement with a private firm to run a part of the Factory as a joint concern with Government. The remaining part of the Factory will be worked as a Government concern. The above decisions are subject to the working out of the details of the agreement and arrangements to run the Factory.

(c) The Ministry of Works, Production and Supply will in future exercise administrative control over the Factory.

AIR-CONDITIONING PLANTS

295. Shri Kshudiram Mahata: Will the Minister of Works, Production and Supply be pleased to state:

(a) the number of air-conditioning plants or apparatus under the Government of India used as such in various Government office buildings;

(b) the annual cost of maintaining and using such things; and

(c) the names of places where air-conditioning arrangements are in use in Government office buildings?

The Deputy Minister of Works, Production and Supply (Shri Buragohain): (a) to (c). A statement giving the information is laid on the Table of the House. [See Appendix VII, annexure No. 36]

SALT IMPORT FROM ITALY

296. Shri Sidhva: (a) Will the Minister of Works, Production and Supply be pleased to state whether it is a fact that Government have ordered the import of salt from Italy?

(b) If so, when and for what quantity was order placed and at what price?

(c) Was the Salt Advisory Committee consulted?

(d) For what purpose was this order placed in Italy?

(e) What is the stock of salt in India and was the quantity of salt required available from indigenous manufacture of salt?

The Minister of Works, Production and Supply (Shri Gadgil): (a) A private party has been permitted to import rock salt from Italy at the special request of the Jammu and Kashmir Government and on their behalf.

(b) In July, 1951 for one ship load of 5,500 tons at a C.I.F. value of about Rs. 165,000.

(c) No.

(d) Salt was required by Jammu and Kashmir Government for consumption in that State.

(e) The total stock on 1st September, 1951 was 478 lakh maunds. The required variety of salt is not available in the country.

CENTRAL COAL BOARD

297. Shri S. N. Das: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether Government have decided to constitute a Central Coal Board to unify the activities of the various bodies relating to the Coal Industry; and

(b) if so, what will be the nature of its constitution and functions?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). A proposal to set up a Coal Board, charged with the duty of taking effective measures for the Conservation of Coking Coal, is now under consideration; no decision has yet been taken on the details as regards its constitution etc.



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PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

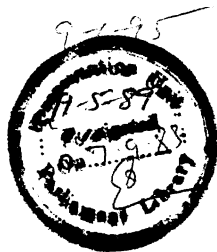
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(30th August, 1951 to 22nd September, 1951)

Fourth Session
of the

PARLIAMENT OF INDIA

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THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers.)
OFFICIAL REPORT

2973

PARLIAMENT OF INDIA

Friday, 21st September, 1951.

*The House met at Half Past Eight
of the Clock*

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

9-30 A.M.

STATEMENTS BY MINISTERS

Shri Amolakh Chand (Uttar Pradesh): May I respectfully submit about question No. 1220 standing in my name about the sale of Evacuee Properties in Pakistan? I consider this as an important question and according to the precedent may I know if the hon. Minister for Rehabilitation would like to answer that question after the question Hour is over?

The Minister of State for Rehabilitation (Shri A. P. Jain): I have no objection. I can answer it

An Hon. Member: He should.

Mr. Deputy-Speaker: There is no question of 'should' Whenever any hon. Minister wants to explain certain things on the floor of the House and if that question is not reached, it is open to him either himself *suo moto* or at the instance of an individual Member to make a statement. I do not wish to take away the rest of the time devoted to official business by answering any question. The first hour is devoted to this kind of non-official business. It is left to the hon. Minister who wants to explain a particular thing. The option is entirely in his hands.

Shri A. P. Jain: I have no particular interest in making a statement.

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PAPERS LAID ON THE TABLE

PUNJAB SECURITY OF THE STATE ACT, 1951 (PRESIDENT'S ACT I OF 1951)

The Minister of Home Affairs (Shri Rajagopalachari): I beg to lay on the Table a copy of the Punjab Security of the State Act, 1951 (President's Act I of 1951), under sub-section (3) of section 3 of the Punjab State Legislature (Delegation of Powers) Act, 1951. [Placed in Library. See No. P-214/51].

REPORT OF DELEGATION TO THIRTY-THIRD SESSION OF INTERNATIONAL LABOUR CONFERENCE

The Minister of Labour (Shri Jagtivan Ram): I beg to lay on the Table a copy of the Report of the Indian Government Delegation to the Thirty-third Session of the International Labour Conference held at Geneva in 1950. [Placed in Library. See No. IV R. O1 (214)].

HINDU CODE—contd.

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee. Yesterday we disposed of Clause 2; the major contentious clause is over. I hope the other clauses will be passed quickly.

Clause 3.—(Definitions)

The Minister of Law (Dr. Ambedkar): I beg to move:

In clause 3,—

(i) for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires";

(ii) renumber the existing items (i), (ii), (iii) and (iv) as items (ii), (iii), (iv) and (v), and insert the following as item (i), namely:

'(i) "Aliyasantana law" means the system of law applicable to

[Dr. Ambedkar]

persons who, if this Code had not been passed, would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(iii) in item (iii), as so renumbered, omit "except in sections 44 and 49";

(iv) in the *Explanation* to item (v), as so renumbered, for "this clause" substitute "clauses (iv) and (v)";

(v) renumber the existing items (v), (vi), (vii) and (viii) as items (viii), (ix), (x) and (xi) and insert the following as items (vi) and (vii) namely:

(vi) "Marumakkattayam law" means the system of law applicable to persons—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933) the Travancore Nair Act, II of 1100, the Travancore Ezhava Act, III of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kashatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, 1115, the Cochin Thiyya Act, VIII of 1107, the Cochin Nayar Act, XXIX of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113 or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras, and who, if this Code had not been passed, would have been governed by any system of inheritance in which descent is traced through the female line;

but does not include the Aliyasantana law;

(vii) "Nambudri law" means the law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933) the Cochin Nambudri Act (XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);

(vi) in item (viii) as so renumbered, for "any" substitute "a".

Shri Naziruddin Ahmad (West Bengal): I think that it would be better to proceed serialim, sub-clause by sub-clause, and subject by subject. Otherwise, the difficulty would be that the debate would be of too general a nature. In clause 2 the debate was

much of a general nature because we did not consider individual items or groups.

Mr. Deputy-Speaker: I agree. I shall proceed in the order in which they have been noted in the order Paper.

Dr. Ambedkar: My amendment is so to say in two parts. Item 1 of my amendment is merely a verbal change. It has been pointed out to me that the words that are used in the existing clause "unless there is anything repugnant in the subject or context" are not in consonance with the language which we have been using since the passing of the Constitution. The Constitution uses the phraseology "unless the context otherwise requires" and in order to bring the language of this Bill in consonance with the language of the Constitution, I am making that particular amendment. It is merely a change of words.

With regard to the other amendments they are necessary because it has now been proposed that the marriage and divorce law should also apply to persons who are governed by the Marumakkattayam and Aliyasantana law. As the subsequent sections deal with that aspect of the matter, it is necessary to enlarge the definition clause so that necessary definitions which relate to that matter may be brought in and the definition clause be made complete.

Mr. Deputy-Speaker: Amendment moved:

In clause 3,—

(i) for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires";

(ii) renumber the existing items (i), (ii), (iii) and (iv) as items (ii), (iii) (iv) and (v), and insert the following as item (i), namely:

(i) "Aliyasantana law" means the system of law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949);

(iii) in item (iii), as so renumbered, omit "except in sections 44 and 49";

(iv) in the *Explanation* to item (v), as so renumbered, for "this clause" substitute "clauses (iv) and (v)";

(v) renumber the existing items (v), (vi), (vii) and (viii) as items (viii), (ix), (x) and (xi), and insert

the following as items (vi) and (vii), namely:

(vi) "Marumakkattayam law" means the system of law applicable to persons—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act, XXII of 1933) the Travancore Nair Act, II of 1100, the Travancore Ezhava Act, III of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kashatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, 1115, the Cochin Thiyya Act, VIII of 1107, the Cochin Nayar Act, XXIX of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113; or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras, and who, if this Code had not been passed, would have been governed by any system of inheritance in which descent is traced through the female line; but does not include the Aliyasantana law;

(vii) "Nambudri law" means the law applicable to persons who, if this Code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act (XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);

(vi) in item (viii) as so renumbered, for "any" substitute "a".

Shri Naziruddin Ahmad: My amendment No. 410 comes in by way of priority according to the subject because this amendment is the real clause. My amendment seeks to delete 'Aliasantana law'.

Mr. Deputy-Speaker: The hon. Member may move it.

Shri Naziruddin Ahmad: I beg to move:

In the amendment proposed by Dr. Ambedkar, in part (ii), omit the proposed part (i) of clause 3.

Before that I have certain verbal and formal amendments which I think, need not be pressed before the House, that is in the amendment proposed by the hon. Minister of Law in item (ii) there is the renumbering amendment that runs all through the amendments. If we take up the renumberings at this stage it will create confusion, and we do not know where we would be.

They should be done by the Secretary or the Draftsman and therefore I suggest that for the time being we should eliminate these renumbering amendments. I have a lot of amendments to cure these verbal irregularities, but I do not wish to move them because I want to leave them entirely to the Secretary.

Coming to my amendments, they are for the deletion of the definition of Aliasantana law and I have other amendments to delete the definitions of Marumakkattayam and Nambudri law. The reason for moving this amendment is this; that this as well as other amendments relate to these special laws, which I want to delete because this is the policy of the Bill, namely to make no reservation, no exceptions in any case. In the case of Sikhs we have decided to make no exception. In the case of others we have made no provision to exclude them from the operation of the Code. That being the accepted principle.....

Mr. Deputy-Speaker: I understand the hon. Minister to say that he now proposes to extend all the provisions of this Act to both these classes also.

Shri Naziruddin Ahmad: That means the marriage and divorce law laid down in the Bill will also apply to those Hindus who are now governed by Aliyasantana, Marumakkattayam and Nambudri law separately.

Mr. Deputy-Speaker: Therefore, the objection is over.

Shri Naziruddin Ahmad: The objection is that if general provisions are to apply to all Hindus so far as marriage and divorce is concerned, the definition is absolutely unnecessary. It is rather misleading.

Mr. Deputy-Speaker: We have accepted this and we had included others as in the case of Sikhs. There is no need for separate definition. The Bill includes it and therefore it is not necessary. Exception is made for Aliasantana and Marumakkattayam law. They are excluded from the operation of marriage and divorce laws as envisaged in the Bill.

Shri Naziruddin Ahmad: I do not think they should be excluded at all.

Mr. Deputy-Speaker: That is exactly what the hon. Law Minister is trying to do.

Dr. Ambedkar: That is what I am trying to do.

Shri Naziruddin Ahmad: By the inclusion of this definition? If that

[Shri Naziruddin Ahmad]

is the specific purpose, then, my amendment is needless.

Mr. Deputy-Speaker: Originally, those who were governed by the Aliyasantana Act and Marumakkattayam law were excluded and they were allowed to be regulated by those two laws. The hon. Law Minister now feels that they must also be brought into the frame work of the Act so as to bring about uniformity. That is why he is adding this.

Shri Naziruddin Ahmad: My perplexity arises from the fact that even apart from this definition, they will ordinarily be included.

Mr. Deputy-Speaker: The Bill specifically excludes them.

Shri Naziruddin Ahmad: That portion should be deleted. There is repetition.

Mr. Deputy-Speaker: The hon. Member began under the wrong impression that originally they were included and the Law Minister wants to exclude them.

Shri Naziruddin Ahmad: The exclusion should be by amending the general clause; not in the definition.

Mr. Deputy-Speaker: That is another matter. As a matter of substance, hon. Member's amendment has absolutely no force.

Shri Naziruddin Ahmad: I quite agree.

Mr. Deputy-Speaker: Then, why should he look at formal affairs and verbal amendments. If it is necessary, let us have this definition for the purpose of clarification instead of relegating it to some General Clauses Act.

Shri Naziruddin Ahmad: Not the General Clauses Act, but the general definition of Hindus under this Act. It should apply to all Hindus. This Aliyasantana law governs the Hindus. This is special mention and then inclusion. The inclusion is already there.

Mr. Deputy-Speaker: The backbone of his objection is broken. The hon. Member is trying to get at some formal affair. Is it necessary?

The Minister of Home Affairs (Shri Rajagopalachari): I think the hon. Member has not realised the actual position. There are two ways of excluding certain classes or groups: one by actually ignoring them in the whole Code and another by referring to

them and providing for them as exception. If the hon. Law Minister has chosen now to provide for them by making exceptions in the body of the Code, it is necessary to define them.

Mr. Deputy-Speaker: It is the other way about. He has already made exceptions in favour of these and he has provided for exclusion from the Bill.

Shri Rajagopalachari: That is what I have said.

Mr. Deputy-Speaker: What he wants to do is to include them.

Shri Rajagopalachari: I think the hon. Member who has moved the amendment is thinking that we have applied the whole Code bodily to these people and therefore, since you have defined the Hindus, why should you define these people. The answer is, we do not propose to apply the provisions in the Code bodily to them but to provide exceptions and therefore it is necessary to define who they are.

Shri Naziruddin Ahmad: I fail to appreciate all this fineness. If the Code is to apply, it should straight forward be applied to them, instead of leaving any exceptions.

Shri Rajagopalachari: Suppose we applied it to them; "they" should be defined here. That is what is being done.

Shri Naziruddin Ahmad: It should apply to all; they are already included in the definition of Hindus.

Shri Rajagopalachari: There are exceptional provisions for these people.

Mr. Deputy-Speaker: Let me understand first; without understanding, I cannot put it to the House. As the Bill stands at present, clause 51 says:

"(1) Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 to obtain the dissolution of a sacramental marriage, whether solemnised before or after the commencement of this Code."

Therefore, under the Bill as it has emerged from the Select Committee, Marumakkattayam law is allowed to apply so far as those persons who are governed by this law are concerned. What the hon. Law Minister wants to do is not to create exceptions in favour of any particular class, but to bring them all under this Act.

Dr. Ambedkar: Yes.

Mr. Deputy-Speaker: That is what Mr. Naziruddin Ahmad wants. Originally he was under the impression that an exception is sought to be made. He was under the impression that originally those governed by the Marumakkattayam law and Aliyasantana law were governed by this Code and the hon. Law Minister wanted to make exceptions and that is what he objects to. Now that he knows that the original Act made an exception and they are being brought under it, he withdraws his objection, but he clutches,—let me withdraw that word—he wants to raise a formal thing, regarding the definition of Marumakkattayam and Aliyasantana. The substance has gone. Why should he worry himself over these formal things.

Shri Naziruddin Ahmad: Clause 51 should be deleted. That would be enough.

Mr. Deputy-Speaker: That is a matter of procedure.

Dr. Ambedkar: We will come to that later on.

Mr. Deputy-Speaker: We will come to that later on.

Shri Naziruddin Ahmad: There are special provisions in this Bill for all these people. That should be dropped. The definition should also be dropped.

Mr. Deputy-Speaker: There is no harm in making it clear.

Shri Naziruddin Ahmad: It would only be showing one's nose in a round-about way.

Mr. Deputy-Speaker: Aliyasantana law is not a general law going into the customs and other things. This is a Code.

The Minister of State for Transport and Railways (Shri Santhanam): After we have finished the whole thing, if any substantial provision of Aliyasantana Act does not come in, then we can revert to this, if it is superfluous. It is better to start with a definition because some provisions as they stand have reference to it.

Mr. Deputy-Speaker: I suppose the hon. Member Mr. Naziruddin does not see any necessity for this. As a matter of fact, his point has been put forward in the hon. Law Minister's amendment. Therefore, all the amendments standing in the name of Mr. Naziruddin Ahmad are not moved.

Shri Naziruddin Ahmad: No, no.

Mr. Deputy-Speaker: Amendment No. 372 is a formal one. I shall take the responsibility for re-numbering.

Shri Naziruddin Ahmad: Amendment 410 is not pressed.

Mr. Deputy-Speaker: Then, there are amendments 374 and 375.

Shri Naziruddin Ahmad: I press amendment No. 374. But, my amendment No. 377 comes earlier.

Mr. Deputy-Speaker: The hon. Member may move it. So far as formal amendments are concerned with regard to brackets, etc., I shall instruct the office about them.

Shri Naziruddin Ahmad: I shall not move then any more at all. That is quite enough. I move amendment No. 377.

Pandit Thakur Das Bhargava (Punjab): Am I to take it that you have exhausted sub-clause (i)? I have got an amendment.

Mr. Deputy-Speaker: Let me first finish the first clause.

Pandit Thakur Das Bhargava: I have no objection if Mr. Naziruddin Ahmad claims to move all his amendments first.

Shri Naziruddin Ahmad: It is not a claim; it would be more convenient.

Mr. Deputy-Speaker: Let me first dispose of sub-clause (i) of clause 3.

Pandit Thakur Das Bhargava: I beg to move:

In part (i) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies."

I do not want to make any speech as the thing is very apparent.

Mr. Deputy-Speaker: Amendment moved:

In part (i) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies."

Shri Santhanam: Clause 2, sub-clause (3) covers this point fully. "Hindus" means all people to whom this Code applies.

Mr. Deputy-Speaker: The House has already adopted the definition.

Pandit Thakur Das Bhargava: I know that. But, nothing is lost if we use these words which are very expressive. Suppose a person reads any other section; then, he has to know what the definition is. Unless he keeps the definition in mind, he would not be able to know to whom

[Pandit Thakur Das Bhargava]

this Code applies. These words express the meaning fully.

Mr. Deputy-Speaker: Even then, he has to revert back to the meaning of persons to whom this Code applies. We are only using and expanded definition.

Pandit Thakur Das Bhargava: 'Persons to whom this Code applies': he has to take this definition everywhere. This is more particular. I leave it to the House.

Mr. Deputy-Speaker: I am only trying to know whether it is a matter of substance on which greater emphasis should be laid or a formal thing. Anyhow, I take it as moved.

Pandit Thakur Das Bhargava: I beg to move:

In part (i) omit the words "and uniformly".

Shri Santhanam: I want to get one point clear. Does the hon. Member suggest that if there was a custom one thousand years ago in a particular.....

Pandit Thakur Das Bhargava: I have not yet spoken on my amendment, and my hon. friend there is already opposing it.

Mr. Deputy-Speaker: No, the mover only means that uniformity is a difficult matter for the whole of India. Amendment moved:

In part (i) omit the words "and uniformly".

Pandit Thakur Das Bhargava: With your permission I shall move my other amendment also:

In part (i) of clause 3,—

(a) after the words "group or family" occurring in line 4, add the following:

"or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family"; and

(b) Omit the first proviso.

If you will allow me, I shall argue out my point in moving these amendments.

Mr. Deputy-Speaker: Not now, I shall come back to the hon. Member. Amendment moved:

In part (i) of clause 3,—

(a) after the words "group or family" occurring in line 4, add the following:

"or any rule which is certain, not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family"; and

(b) Omit the first proviso.

Shri Jhunjunwala (Bihar): I want to move my amendment No. 413 in a slightly modified form, using the word "varna" for the word "caste" occurring there.

Dr. Ambedkar: It rather confuses me if the word "sub-clause" is used when referring to these parts or items of the clauses. In matters of this sort, we speak of items. They are referred to as item 1 and item 2 and so on. There are no sub-clauses to these clauses. They may please be referred to as entries or items.

Mr. Deputy-Speaker: There are these clauses and then these sub-clauses and so I.....

Shri Santhanam: No, Sir. Sub-clauses are numbered as usual.

Dr. Ambedkar: Whatever word may be adopted, it is better to avoid the word "sub-clause".

Mr. Deputy-Speaker: All right. I shall use the word "entry" or "part." Here Mr. Jhunjunwala wants to modify his amendment by changing the word "caste" into "varna"—as was suggested by the Law Minister yesterday.

Shri Jhunjunwala: I beg to move:

In part (i) after the word "tribe" insert the word "varna".

I would also like to move my amendment No. 414 with a slight modification, omitting the words coming after the words "principle castes". I beg to move:

After part (i) insert the following new part:

"(ia) the word "varna" means according to the context in each case four principle "varnas"."

Mr. Deputy-Speaker: Amendment moved:

In part (i) after the word "tribe" insert the word "varna".

After part (i) insert the following new part:

"(ia) the word "varna" means according to the context in each case four principle "varnas"."

Shri R. K. Chaudhuri (Assam): I beg to move:

Omit the Provisos to part (i) of clause 3.

Mr. Deputy-Speaker: Amendment moved:

Omit the provisos to part (i) of clause 3.

Shri Syamnandan Sahaya (Bihar): I also want to move the amendment. We both of us have given notice of the amendment jointly.

Mr. Deputy-Speaker: I do not attach much importance to the moving of the amendment by all the Members. But if the hon. Member wants to withdraw any amendment, then I will see that the other hon. Member has his say or if the hon. Member is absent, then the other hon. Member will be able to withdraw it.

Captain A. P. Singh: (Vindhya Pradesh): I want to move my amendment No. 378, dealing with part (viii).

Mr. Deputy-Speaker: We have not come up to that part.

Shri Syamnandan Sahaya: You were pleased to say that you would first deal with all amendments belonging to one category or group. I suggest that only the amendments dealing with the definition of one thing be taken up now, discussed and disposed of and then we go to another set of amendments dealing with another point. Otherwise it will lead to difficulties.

Mr. Deputy-Speaker: That is exactly what I am doing. We are now dealing with amendments to only part (i)—“Custom” and “usage.”

श्री भट्ट : मैं ने एक संशोधन दिया है जो आप के पास पहुँच गया होगा वह कस्टम और यूसेज के बारे में है।

[**Shri Bhatt (Bombay):** I have tabled an amendment which must have reached you. It is about custom and usage.]

मि० सिन्धी स्पीकर : अच्छा क्या है।

[**Mr. Deputy-Speaker:** Well, what is it?]

श्री भट्ट : उस में पार्ट एक है।

[**Shri Bhatt:** It is about part (ii).]

Mr. Deputy-Speaker: But I have not got a copy. I would not like the House to be taken by surprise. At least the mover of the Bill should be given a

copy of the amendment sufficiently in advance and also a copy sent to me. That is the minimum I expect. We should not be taken by surprise.

श्री भट्ट : मैंने यह समझा कि शायद आप को दफ्तर से इस की कापी मिल गई होगी क्योंकि मुझे अभी आधा घंटा हुआ मिल गई है।

[**Shri Bhatt:** I thought you would probably have got a copy of it from the office as I got one just half an hour ago.]

Mr. Deputy-Speaker: When was it delivered?

श्री भट्ट : आज सुबह।

[**Shri Bhatt:** This morning.]

10 A.M.

Mr. Deputy-Speaker: I do realise that some amendments may have to be allowed either from the Government side or the other side at the last moment. But I would suggest to hon. Members that at least the Law Minister must be given previous intimation of such amendments and a copy also sent to me. I will rigorously adopt this rule so far as new amendments are concerned. They should be agreed to by all sections of the House.

[**Shri Bhatt:** उस में जो पार्ट एक है उस के लिये मैंने यह रखा है : [For part (i) of it I have proposed] I beg to move:

For Part (i) of Clause 3, substitute the following:

“(i) the expressions ‘custom’ and ‘usage’ signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family:

Provided that the rule is certain and not unreasonable; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;”.

Mr. Deputy-Speaker: What is the difference between this and that?

श्री भट्ट : वह तो मैंने इस में से निकाल दिया है। एक हिस्सा रखा है इस लिये मैं

[श्री भट्ट]

न इस एग्जेंडमेन्ट को इस रीति से ड्राफ्ट किया है।

[Shri Bhatt: That I have taken out of it. A portion of it has been retained. That is why I have drafted this amendment in this way.]

Mr. Deputy-Speaker: Amendment moved:

For part (i) of Clause 3, substitute the following:

“(i) the expressions ‘custom’ and ‘usage’ signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family:

Provided that the rule is certain and not unreasonable; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family:”

Shri Syamnandan Sahaya: The amendment moved by Shri R. K. Chaudhuri relates to part 2 and not one.

Dr. Ambedkar: It refers to the clause as it stands now.

Pandit Thakur Das Bhargava: In connection with my amendments Nos. 444 and 446 I would like to make some general observations regarding custom. The sole basis for the present Code is that such customs and laws as are opposed to the principles to be enacted in the Code will be abrogated for all time. I take it that the central principle of this codification is that all the various customs in all parts of the country will, as a matter of fact, be so unified by the provisions of the Act that one law shall be applicable to the whole of India for the communities concerned. I have accepted that basis as good and I am in favour of the codification, because our laws will then become certain and they will become applicable to all Hindus all over India.

Apart from the unification of the customs sought to be done by the Code, there are many customs and laws which we want to see changed. It is not only an attempt at codification. It is certainly a code in which we want all our bad customs and laws to be modified and hence in that respect it is

a reform Bill also. I am in favour of the provisions of the Bill because I think they are a great advance upon the present practices and they imply reforms of a very great degree among the laws and customs now obtaining among the Hindus.

But when I find Dr. Ambedkar agreeing to this or that custom coming into the Bill I feel that the essential principle on which the Code is based is being sacrificed to opportunism. I know that he is in a great fix and I have nothing but sympathy for him. Left to himself I am sure he will not accept these customs. Left to myself I would behave in the same way and there is no difference so far as this attitude is concerned between him and myself.....

Mr. Deputy-Speaker: We are now on the definitions only. Such matters as *sapinda*, *sagotra* or degrees, in regard to which whether custom ought to be allowed to prevail we will deal with them we come to individual cases. Is it the hon. Member's intention that the definition of Customs should go?

Pandit Thakur Das Bhargava: The definition of the word “custom” will govern the word wherever it appears in the subsequent clauses. That word will have the meaning which we assign here. Therefore it is very necessary to understand the significance of the word custom and see how it affects our principles. For us to know the full meaning of the word it is necessary that we realise how we are altering the entire provisions of the Code, when we define “customs” in the manner proposed.

Mr. Deputy-Speaker: The hon. Member is sufficiently an elderly Parliamentarian to know things but I want to understand things for myself. When individual items such as marriage or divorce come up we shall see what further changes have to be made in respect of that particular portion. We might say “Notwithstanding this, this shall not be allowed, etc.” We are now on the definition and let us not enlarge the scope and discuss every one of the entries and see how such and such custom will work hardship. That would mean another general discussion.

Pandit Thakur Das Bhargava: I understood you, Sir, even without the exposition which you have been kind enough to make. I quite see the force of the point you have made. You are here only defining customs but whatever definition is given here will apply to all those customs which are allowed in respect to certain matters.

Mr. Deputy-Speaker: Not necessarily. With regard to the Sikhs or some others we might say "Notwithstanding, this custom shall not prevail".

Pandit Thakur Das Bhargava: What is the meaning of our saying that custom shall not prevail but certain customs in regard to the incidents of marriage will prevail? It means that a certain kind of rule shall prevail and that rule or principle we are defining here, whether it should be such as is opposed to public policy but all the same one which has got the force of law.

Mr. Deputy-Speaker: As to how custom ought to be recognised, if hon. Members want to impose restrictions it is certainly within the scope without going into the details of the various customs prevailing.

Pandit Thakur Das Bhargava: I am not on details at the moment. When the occasion arises we shall see whether the custom should be allowed to prevail in respect to those matters. Here I am making only general observations and submitting to Dr. Ambedkar

Mr. Deputy-Speaker: The general observation that there shall be no customs and so forth could come at the first and second stage.

Pandit Thakur Das Bhargava: I am not saying that no custom should be allowed. I am only saying that he should not be very liberal and allow many kinds of customs which will take away from the effect of the Bill. Then it would mean that there would be no use having this code if in respect of every matter you allow a custom to prevail.

Mr. Deputy-Speaker: We are once again going into the details. It is one thing to say that hereafter no custom at all will prevail, only the law will prevail. But it is another thing to say that we have to allow certain customs. In that case when we go into the details we will find out what ought to be allowed and what customs ought not to be allowed.

Pandit Thakur Das Bhargava: I am restricting the scope of custom by this definition. Supposing only those customs as have been judicially recognised are to be allowed, that would certainly restrict the scope of custom. Otherwise if we leave custom undefined when a man is faced with difficulty he will go and take shelter under custom and produce any amount of evidence: custom can be proved not only by instances but by opinions, by

reference to texts. Therefore, I want that so far as custom is concerned its scope may be restricted. It is not that I have only taken one case and put it for the consideration of Dr. Ambedkar. I have gone further and just to show the absurdity of how he is allowing so much liberalisation of customs I have given certain amendments to show to him and to impress upon him that he should proceed cautiously. Therefore my amendment No. 446 says:

"or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family".

I can understand that there are some customs which are growing some which have been crystallised. As regards those which are growing we want that they may not grow because that is the only way of having a statutory rule effective. In regard to customs which have not been judicially recognised, my own view is that we should not bring them within the scope. Either we accept that the society should accept custom as the sole rule of conduct and there should be no other rule among the Hindu community as was the case before—in that case also we will reach a stage when custom will become so stereotyped that we will attain what we want to—or, in the other case when we want to impose the rule of thumb, when we want to lay down by statute that such-and-such shall be the rule. Any how we will be well advised if we recognise customs which have been judicially recognised. In the definition given it would appear there is no mention of any judicial recognition of any custom. On the contrary, the words in the first proviso are:

"that the rule is certain and not unreasonable or opposed to public policy".

I am opposed to the wording, "opposed to public policy". I do not know what the "public policy" is. So far as monogamy is concerned, I understand the public policy to be that the Government seems to be of the view the monogamy is a good thing for Hindus but then for the rest of the community it does not apply; as regards my Mussalman friends, many of whom I know do not like polygamy still the Government is undecided and has taken shelter under the specious plea that they have not been consulted. If a thing is opposed to public policy, it is so for all. I know of a custom in the Punjab where *kharya* marriages are allowed. They cannot be called

[Pandit Thakur Das Bhargava]

absolutely bigamous, but at the same time they are a different edition of bigamy because after the man dies the *devar* of the woman, that is the younger brother of the deceased husband though his spouse may be living is allowed to marry that widow; the property remains with the family and the lady also remains with the family. So, opposed to public policy might mean anything. It is so flexible a term that it shall vary with the length of the foot of the Law Minister. I am therefore opposed to these words. I would rather like that any custom which has been judicially recognised, which has stood the test of time should be recognised.

Mr. Deputy-Speaker: Hereafter there will not be any custom.

Pandit Thakur Das Bhargava: My submission is that in regard to this matter in which the Hindu Code seeks to provide, there should be no custom; otherwise the whole purpose of the Code will disappear. You are perfectly right, Sir, when you say that in future there will be no custom on matters on which the Hindu Code provides, but in regard to other matters, so far as the Hindu Code does not relate to those matters at all.....

Mr. Deputy-Speaker: What will happen if there is a particular custom which is undisputed? It need not come to court. Only a disputed custom comes to court and is recognised or not. Any custom which is not obnoxious to public policy is recognised by the community. Merely on account of not having been recognised by a court does it lose its stand?

Pandit Thakur Das Bhargava: My submission is that if there is provision for it in the Code then it does not grow. If there is no provision then it will remain and grow, and even if you took away these words "opposed to public policy" still it will remain because it is a rule of law. If you put the words "opposed to public policy" then, in spite of the fact that a custom is a good one and observed by great numbers in the community, it will not grow if somebody is able to say that it is opposed to public policy.

Mr. Deputy-Speaker: The hon. Member is a good lawyer. My own interpretation is different. Wherever this Code specifically provides for a particular thing, unless an exception is made, to that extent a custom is abrogated whether it be opposed to pub-

lic policy or not. What is the difficulty under which the hon. Member is labouring? There are certain customs which have to be recognised, certain customs which are obnoxious and so opposed to public policy. Public policy is only a matter which can be judged by the foot of the judge. In regard to those matters we can say, why leave them to the court to decide; those customs are absolutely obnoxious. But with regard to other customs why say that they ought to be recognised by a court? I think it is impossible to legislate for all the things.

Dr. Ambedkar: Perhaps you will allow me to intervene for a minute or two to clarify the point.

Pandit Thakur Das Bhargava: I am, Sir, of the same view as was expressed by you, but I am expressing it in a different way. I do not want to tamper with the customs which are growing, which are good customs, but my fear is that any court may take upon itself to say that it is opposed to public policy. All the customs are not treated here because we have not the time and energy to go into all the customs throughout the country. Because we cannot say what customs will be saved, we should say that a custom to be recognised shall have to be judicially recognised as not opposed to public policy.

Dr. Ambedkar: The question which has been raised by my friend, Pandit Bhargava is no doubt very important and so far as I know there is not the slightest difference between the view that I take and the view that he takes. The only thing is that he has applied his mind, if I may say so, to a wrong clause and that is why he has been rather confused as to what exactly is the position. Those Members of the House who are interested in the subject of custom *versus* the Code had better begin to apply their mind not to clause 3 but to clause 4 which is the main clause which deals with this matter of authority of custom as against the authority of the Code and the law. And you will find, Sir, a very clear statement therein that unless a custom has been expressly saved that custom will not have any operation as against this law. Therefore, the question whether any particular custom has been expressly saved or not has to be gone into when we come to discuss each of the clauses of this particular Bill whereon Members may raise the question whether the particular clause should stand in the absolute way in which it has been drafted or whether it should be made subject to

any particular custom. If any particular clause in this Bill does not say "Save as otherwise provided by custom" or "unless there is a custom to the contrary" there is no custom which this Bill proposes to recognise. Therefore, on that point there ought to be no doubt. There is not the slightest intention to allow custom to override in a general way the provisions of this Code.

My hon. friend has, I know, a particular question or an occasion in mind when he feels that I have been going rather soft on this particular subject, but I can tell him that it is only in very very rare cases that I propose to yield on this subject, subject to the fact that anyone who presses upon me that the custom should override this particular Code in any particular way will carry upon him the burden of showing that that custom is more progressive than the provisions of this particular Bill.

Now, supposing that we do introduce a qualifying statement when we come to deal with different subjects, i.e. we say that that clause shall be subject to any existing custom or something like that, even then the question remains: What is the standard to which that particular custom must conform before it can have that over-riding effect? It is that question which is dealt with in the definition clause, so that whenever any custom is saved it will nonetheless be open to find out whether the custom which is allowed by the particular clause to prevail upon a provision of this Bill conforms to the definition which is really a definition laying down the standard to which a custom must reach before it can be accepted by the court. That is the position.

So far as (ii) of clause 3 is concerned, there is nothing in this clause which is not bodily taken from the judicial pronouncements of the different High Courts in our country which have had to consider what is the custom to which they will give their sanction, and I think the ingredients of custom which the courts have laid down have been bodily and literally embodied in (ii) of clause 3. So, I do not think there is any ground for quarrelling with the definition, because the definition is necessary. Even where we allow custom to prevail, we do not allow any kind of custom to prevail but only custom which conforms to the standards which have been laid

down by the High Courts and hon. Members will see that the standards laid down in (ii) are the standards which have been sanctified and laid down by the various courts in our country.

Shri Naziruddin Ahmad: Even in foreign courts this is so.

Dr. Ambedkar: Everywhere this is the same. I have looked up even Stephen's Digest of English law and I find that the wording is almost the same as we have got here.

Pandit Thakur Das Bhargava: I am very much obliged to my hon. friend the Law Minister for his having kindly explained.

Shri J. R. Kapoor: (Uttar Pradesh): Has the hon. Member not finished?

Mr. Deputy-Speaker: No. He will continue. He is on his legs. Incidentally not only Members of Parliament but also outsiders are watching the progress of this Bill and there is some misunderstanding about my position. Once I sit here I have absolutely no colour, no caste, no creed. That is my honest position. To the best of my conscience I have tried to discharge my duties impartially. If any hon. Member feels rightly or wrongly that I am not doing it properly, I always welcome his coming and telling me privately that I must do this and that.

I find that even hon. Members of this House are under the impression that when an hon. Member is on his legs I can ask him to sit down. I have been appealing to hon. Members that with respect to important matters, certainly sufficient latitude and time is necessary and must be allowed but if they repeat matters which have been discussed at various stages that is not right. Barring that, I am not in a position to impose any time restriction. If the hon. Minister of Law can tell me that I can impose any time restriction on speeches under the law, I will be only too glad to avail of it.

Dr. Ambedkar: It cannot be done. But we have agreed amongst ourselves to impose a self-abnegation ordinance.

Mr. Deputy-Speaker: I am very glad of that, but the burden should not be cast on the Chair. In a Finance Bill, I can apply the guillotine. This has been newly introduced. Hitherto the guillotine was applied to only Budget Grants, but recently it has been introduced so far as Finance Bills are concerned. I can fix a time-limit and all amendments will be lost unless they are moved and accepted or rejected before that time-limit. But with respect to other Bills, I have no

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right to fix a time-limit even with respect to the Bill as a whole. With this restriction, I feel very much embarrassed if any hon. Member thinks that I am allowing too much time. That is my position and the position of anybody who may be in the Chair.

Lastly, if any hon. Member feels that there has been sufficient discussion on a particular clause, he can kindly tell me. There of course I have my discretion. If I too feel that the matter has been elaborately discussed or at any rate sufficiently, discussed I will agree to the closure motion. To that extent, there is discretion in me. Hon. Members who make suggestions will kindly bear all these things in mind. I am making this statement because an impression is created outside that notwithstanding the suggestions of hon. Members I am standing in the way and holding the pendulum back.

In this connection, may I also inform the House that I have received a letter from the Managing Editor of the *Indian News Chronicle*? Yesterday, as the House will recall, Shri Amolak Chand drew my attention to a cartoon appearing in this paper which described some Members as holding the minute hand and hour hand and withholding the progress of the clock, and the Deputy-Speaker as catching hold of the pendulum firmly so that the clock cannot move this side or that side. The hon. Members are shown as looking up and not looking down and seeing as to who is the man that is really holding the clock back. That is the impression that was created by that cartoon. Since I made reference to this matter yesterday and it is practically a privilege of the House and I am only its spokesman, I would like to read this letter. It is written by Shri Deshbandhu Gupta, Managing Editor, and runs thus:

"My dear Shri Ananthasayanam Ayyangar,

I am informed that you took exception to the cartoon which appeared in the *Indian News Chronicle* yesterday morning under the caption "Putting the Clock Back". You are reported to have expressed the view that the cartoon was calculated to cast aspersions on the Chair. I am very sorry that the cartoon has given cause for offence to you personally or in the capacity of

the Deputy Speaker. The cartoonist assures me that it was remotest from his intention to show any disrespect to the Chair or to the House and joins me in assuring you of the desire of the *Indian News Chronicle* to uphold the dignity of both.

The theme of the cartoon as you will kindly see is to illustrate the current situation in Parliament in which in spite of the Chairman's desire to regulate the debate so as to conform as nearly as possible to time schedule some members participating in the debates have endeavoured to prolong the debate and thereby hold the progress of the Bill. I am assured by the cartoonist that in introducing the Deputy Speaker in the cartoon in this role he had no other intention. While regretting that anything in the cartoon should have given cause to you for offence, I hope you will be good enough to accept this explanation and our sincere assurance that there was no intention whatsoever of showing disrespect to the Chair and the House."

I think this is sufficient.

Dr. Deshmukh: From the Chair, he has shifted to Members. He is accusing Members now. It is worse.

Shri Radhelal Vyas (Madhya Bharat): I think the matter should be referred to a Committee of Privileges.

श्री भट्ट : इस का खुलासा हो जाना चाहिये कि मेम्बरों पर भी कोई आक्षेप नहीं है।

[Shri Bhatt: It should be made clear that it was not intended to cast aspersion on any Member either.]

Dr. Deshmukh: Shri Deshbandhu Gupta should be made to apologise to the House.

Mr. Deputy-Speaker: Evidently he feels that the speed which he expects of the progress of the Bill has not been made in this case. I shall later look into the matter as to whether any aspersion or insinuation has been cast on any hon. Members of this House.

Pandit Thakurdas Bhargava: So far as your observations are concerned, with your permission, I would like to say a word. The Members of this House realise that the Chair is sacred. Here sat Vithalbhai Patel—whose portrait we see before us—who sanctified

the Chair. After him was it adorned by men of great eminence and prominence. We all know that the Chair has been holding the scales even. It is idle for the outside world or any Members here to think or feel that the Chair is not impartial or dealing fairly with any question.

But at the same time when passions are frayed, when persons take sides, they are apt to see from an unbalanced standpoint the conduct of the Chair or of the Members of this House. Now great exception was taken by some Members, and they even asked you to stop a Member during the course of his speech. I can fully understand the view-point of every Member who wants to make a long speech. Even Dr. Ambedkar made certain statements to which certain Members look exception, though I was not one of them. Every Member has a right to criticise. So far as we are concerned our skins are too thick now to get offended by such criticism. So far as the conduct of the Chair in this House is concerned, no Member has for a moment even thought that it is conducting the business in a partial manner.

The newspapers have a right to criticise anybody and everybody. I personally would not mind if any press-man criticises me. Let them criticise—they have their own point of view. Let us not be so thin-skinned.

So far as aspersions on the Chair are concerned, by any person either inside or outside the House, I would take strong exception and if you feel that the apology offered is not satisfactory, you should take action against the person concerned.

Mr. Deputy-Speaker: So far as I am concerned, I am satisfied with what he has written. It is, therefore, unnecessary to pursue the matter. If, however, any hon. Member feels that this letter casts any aspersion on him, we shall look into it. At present I do not think any aspersion is cast on any hon. Member or on the House.

Shri Santhanam: Is it suggested that only Government is liable to criticism and not the Members?

Dr. Deshmukh: While Mr. Gupta wrote the letter with the intention of clarifying his position so far as the cartoon was concerned, he has unnecessarily gone out of his way to criticise a section of the Members by alleging that they were obstructing this measure.

Mr. Deputy-Speaker: This letter consists of two parts. So far as the

Chair is concerned and the privilege of the House is concerned, the matter may be left to me. I am satisfied with what he has written. If, however, any hon. Member feels that it casts any aspersion on him, he may meet me in my chamber and we shall discuss the matter.

Pandit Thakur Das Bhargava: What objection could be taken to that. Mr. Deshbandhu himself took four hours on the Press Bill; our friend Mr. Naziruddin Ahmad took seven hours on this Bill.

Dr. Deshmukh: It is a case of the pot calling the kettle black.

In regard to what you said about yourself and the conduct of business in the House, I want to say a word with your permission and that is this. Whereas I sincerely welcome all your interruptions and the help you give for the conduct of the business of the House, I would like to point out with all due respect, that if the debate is allowed to go on probably we might spend lesser time. I have the utmost respect for the Chair and it intervenes only with the idea of helping the proceedings. But if it could be minimised and help given only when it is necessary, we will probably be able to advance better.

Shri Bharati (Madras): It is a direction to the Chair which is uncalled for.

Dr. Deshmukh: The Chair has invited our opinion.

Shri Bharati: Not for giving directions to the Chair.

Pandit Thakur Das Bhargava: As a Member of this House I wish that this rule of free speech is stuck to. I do not want to put any obstacles in the progress of this Bill. All the same I feel very much offended if I feel an inner urge to speak more and more and yet the Chair pulls me up and does not allow me to speak fully. All Members are expected to put a self-restraint on themselves. Now, I come to the subject.

I am very much indebted to Dr. Ambedkar for having very kindly explained this point of law. I quite see that custom has been defined in many judicial pronouncements. But that was not my point. I wanted to suggest that one of the accepted canons for the validity of custom should be that it should be judicially recognised. I suggest this fact that customs have been judicially recognised may not be given a go-by when custom is opposed to public policy. If a custom has

[Pandit Thakur Das Bhargava]

been judicially recognised, it means that it has passed through the seam of courts and has received recognition at the hands of the judiciary.

Dr. Ambedkar: If I may intervene for a moment, that question will again arise, or may arise, or may be raised, when we are dealing with each particular clause. My hon. friend suggested "any custom which is judicially recognised"! It is perfectly open to him to say so. But as you very rightly observed, if we are to confine our recognition to a judicially recognised custom, it will create many difficulties, because there are good customs which satisfy all the ingredients of the definition, yet have not come to the court for judicial recognition. I am only anticipating the difficulties.

Shri Santhanam: The word 'judicially recognised' may mean, recognition by a district court, or a High Court. We cannot say judicially recognised means recognised by the Supreme Court.

Pandit Thakur Das Bhargava: It must be judicially recognised and further it must be certain. It must be not unreasonable, it must be continuous and it must have the force of law. I only want custom which has been judicially recognised should not be given a go-by in the name of public policy. Therefore all these ingredients of a valid custom which are defined by the judicial courts may be accepted.

Mr. Deputy-Speaker: The proviso requires that "the rule is certain".

Pandit Thakur Das Bhargava: It must be certain, not unreasonable and have the force of law. But the words "and uniformly" and "or opposed to public policy" may not be there. This is the difference I want to see carried out.

Mr. Deputy-Speaker: Where a single custom applies to all classes of human beings, then it is only by nature.....

Pandit Thakur Das Bhargava: I beg to be excused. When it is said that a custom should apply to all human beings it must be almost a universal rule or law. It applies to a tribe, community, group or family, as has been defined here. If you say "uniformly" this would mean that the custom that applies to any family or caste or community or tribe will all go away. When the word "continuously" is there and when the word "law" is there I do not understand the necessity for the word "uniformly".

Mr. Deputy-Speaker: I understand "uniformly" to mean without variation.

Dr. Ambedkar: That is the point. I was almost going to say that.

Pandit Thakur Das Bhargava: There are different customs between different families. How can they be uniform?

Mr. Deputy-Speaker: The hon. Member has not appreciated the point. We shall assume that there is a custom and it has been continuous, but it has been followed with variations. Suppose somebody is collecting Rs. 10 in a certain period and it was Rs. 15 in the next period and Rs. 20 in a third period, is it suggested that the application should be not only with respect to custom but to laws and grants also? Suppose it is held by judicial decisions that this was not uniform. Therefore you cannot presume. Similarly, uniformity, means not uniformity with respect to the caste or family etc. but in the family itself it must have been not only continuous but uniform also, that is without variation.

Dr. Ambedkar: That is what it means—without variation.

Pandit Thakur Das Bhargava: As if the changed custom will not be recognized by law. If there is a custom which has gone out of use.....

Mr. Deputy-Speaker: Wherever there is a change, that change must have been so continuous, so long and so certain...

Pandit Thakur Das Bhargava: The word "continuous" is there and I do not object to it. I object to the word "uniformly".

Mr. Deputy-Speaker: Has Mr. Naziruddin Ahmad got any substantial amendment? I do not think so.

Shri Naziruddin Ahmad: I want to speak on 'custom'.

Mr. Deputy-Speaker: First I will deal with those who have got amendments. Does Mr. Jhunjunwala want to speak on his amendment? I am not inviting him to do so!

Shri Jhunjunwala: Yes, Sir, I want to speak on it.

In my amendment I want to add the word "varna" after "tribe".

Mr. Deputy-Speaker: He wants caste custom also to be recognised there. He wants to introduce among

the various categories "caste" also, after the word "tribe". He has already tabled an amendment to that effect. Now he wants to change the nomenclature of the word from "caste" to "varna".

Shri Jhunjhunwala: I want that the word "varna" should occur after the word "tribe" in clause 3(i). The object of my putting in this amendment is that while customs and usages will be recognised according to the area, tribe, community, group or family, the reasons for recognising such usages and customs have not been explained by the honourable Doctor. But if the principle is accented that certain customs and usages will be recognised, if as he has said these are proved to be progressive, in that case the customs which are prevalent in different *varnas* according to *Varnashrama Dharma* should also be recognised if the conditions laid down by the hon. Doctor are satisfied.

This *Varnashrama Dharma* is of no recent origin. People say that it is only in the puranic time that these *varnas*, castes and all these things have come into existence. But that is not a fact. These things were in existence long before, say 3,000 years back. They have got a great deal to do with our life and social structure as well as our economic structure. All the four *varnas* have got different usages and different customs, and they have meaning behind them. Every usage and custom has got meaning behind it, and duties are allotted to different *varnas* according to their ability. The other day when a question was put to him whether he has got the sacred thread, the hon. Mr. Gadgil said, "Yes, I had a sacred thread", then he took off his coat and said, "See, I have taken it away".

Mr. Deputy-Speaker: He did not take off his coat.

Shri Jhunjhunwala: I stand corrected. He did not take off his whole coat. And the reason which he gave, to which I attach importance, was that he is not capable of following the *dharma* of a Brahmin for which the sacred thread is worn, and he said, "Therefore, as an honest man I thought it my duty to throw it away". Sir, this shows that even the hon. Mr. Gadgil recognizes that there is something very great and sanctifying in the usage and of putting on the sacred thread before a Brahmin is married. In the same way there are similar customs in other *varnas* also. Therefore it is very necessary that all the customs which are prevalent in different *varnas* should be recognised

if they satisfy the conditions laid down by the hon. the Law Minister. I have therefore put in this amendment only with this object that if any such clauses come subsequently regarding marriage, divorce or any other thing, we may be in a position to show that these customs, though they may not be prevalent in any tribe or community or group or family, are prevalent in differently *varnas* and these are very essential. These are the reasons for which I want to add the word "*varnas*" there.

Shri B. K. P. Sinha (Bihar): May I know one thing from the hon. Member? Is it his contention that while abrogating the *smritis* and *shrutis* we should not abrogate custom and usage?

Mr. Deputy-Speaker: *Shrutis* and *smritis* have not been abrogated; they have been incorporated.

Shri Jhunjhunwala: He will find that the Law Minister recognizes them.

Shri Syammandan Sahaya: My amendment, as you will see, suggests the omission of the two provisos in the sub-clause or item dealing with the expression custom and usage. The purpose of suggesting this amendment is exactly what has been mentioned by the hon. Law Minister. The hon. Law Minister has said that the definition given here is more or less based on judicial findings on the point and judicial decisions have all been that the words 'custom and usage' should signify what he has laid down in the definition. The words 'custom and usage' must have been and have been the subject of various judicial findings and I therefore, thought that if that is the legal or judicial meaning which has been given to the words 'custom and usage', it would not be desirable to encumber or burden this definition by making the provisos here, because that is exactly what they will mean. The reason for my making the submission is.....

Mr. Deputy-Speaker: I can understand there is no definition at all he can rely upon judicial decisions.

Dr. Ambedkar: The court will also be open.....

Mr. Deputy-Speaker: Custom is continuous and uniform.

Shri Syammandan Sahaya: When a certain word is used in a legislation which has been the subject of judicial interpretation, then that word whenever submitted to judicial interpretation will be liable to the interpretation

[Shri Syamnandan Sahaya]

that judicial decisions have given on it. On the other hand, my feeling is that this law makes such revolutionary changes that the normal course of the manner in which the Hindu law has been interpreted will also undergo unthought of changes and my submission is that with the existence of the provisos, the judiciary may feel that the interpretations and rulings have to be considered afresh and the words 'custom and usage' may now have to be dealt with not only, for instance, on the ground that it has been continuous, that the rule is certain and not unreasonable or been opposed to public policy. You will see the difficulty, Sir, in this as you know that 'public policy' is a matter which is an ever-changing process.

Mr. Deputy-Speaker: Nobody denies that. What is the public policy under particular circumstances is the matter that will be decided.....

Shri Syamnandan Sahaya: Not only under particular circumstances but in the changing conditions of Government. One Government may have one public policy and another Government tomorrow may have another public policy.

Dr. Ambedkar: The word 'public policy' also occurs in the Law of Contracts.

Mr. Deputy-Speaker: Under the Transfer of Property Act no transfer is valid which is opposed to 'public policy'.

Shri Syamnandan Sahaya: I also support the amendment of Pandit Thakur Das Bhargava with regard to the word 'uniform'. The words 'custom and usage' in my opinion are liable to lead to difficulties and also further litigation. It is not necessary that a certain rule or usage or custom should have been uniformly followed in a particular family and I shall refer to a Privy Council Case, if the hon. Law Minister will have no objection. I refer to a very important case which was taken to the Privy Council by the successors of the Moghul Emperors. Now the case was as to who was to be the recipient of the pension paid by the Government of India to the successors of the Moghul Emperors and several people were disputing rights. One said, "I am the successor of the Moghul Emperor" and another said, "I am the successor". The matter went up to the Privy Council and the point arose as to which of them was circumcized, because one of them was not.....

Dr. Ambedkar: I know that case.

Shri Syamnandan Sahaya: And the Privy Council held in this particular case that although normally the rule and custom of circumcison obtained in the Muslim families, in the case of the Moghul Emperors, when there was a child from the Hindu wife, circumcison was not necessary and they were entitled to the pension or something like that. Therefore the hon. Law Minister will appreciate that this uniformity with regard to customs even in a particular family has not been a necessary factor and I think that he will do well to adopt this amendment of Pandit Thakur Das Bhargava, suggesting that the word 'uniformly' be dropped.

Dr. Ambedkar: This has no judicial value. The distinction there was made between custom and practice. Practice has no judicial value.

Shri Naziruddin Ahmad: I want to speak with regard to the definition of the word 'custom' to begin with and I must say that I am in entire agreement with the official draftsman.

Shri Syamnandan Sahaya: For once.

Shri Naziruddin Ahmad: I am in general agreement with the hon. Minister except on occasions when he cannot be made reasonable. With regard to this definition of the word 'custom' it is not merely the Indian law but it is also the law throughout the world. I have a copy of Holland's Jurisprudence which also lays down that a custom in order to be followed must be reasonable, must be continuous, must not be broken and it must be of ancient standing. This is all that is laid down there. The question of uniformity is regarded in Jurisprudence as absolutely essential. If once a custom is broken, it ceases to bear the character of custom at all. This has always been regarded so. So the mere fact that a custom is broken is enough to break the custom. Therefore, I think the definition as it stands should be supported. So far as judicial decision is concerned, the judicial decisions in all cases must have been or are supposed to have been given in view of these considerations but these are considerations which are essential, which are to be found in books of Jurisprudence and therefore, it is far better to rely upon these essential elements rather than rely upon judicial definitions because judicial definitions might be coloured with regard to the difficulties of a particular case and it is far better to rely upon well-known expressions rather than rely upon judicial decisions. Therefore, I think that the definition in the Bill should remain.

Shri J. R. Kapoor: I have not been able to appreciate the necessity of the two amendments that have been moved by my hon. friend, Pandit Thakur Das Bhargava, particularly in view of his own view. His view, I understand, is that the definition of 'custom' should be a restricted one and that various sorts of customs in various parts of the country in different forms, in different methods should not be allowed to prevail. That being his view, with which I am in entire agreement, I think that if the amendments suggested by Pandit Thakur Das Bhargava are accepted, the scope, the denotation of the word 'custom' would be considerably extended and expanded which should not be. The one useful thing about this Bill is that it is going to unify and consolidate the Hindu society in some measure and therefore the less the variations in manners and customs and in the rules applicable to Hindu society, the better it is. The essential basis of this Code is uniformity which it will bring about and we should not get away from that mooring and in the consideration of every clause in this Bill, we should never lose sight of this thing. Once 11 A.M. we lose sight of that, we shall be virtually giving away the basis of this new enactment. What does Pandit Thakur Das Bhargava suggest? Firstly, he suggests that the word 'uniformly' should be done away with. That would mean that a custom even if it has not been uniformly observed should be a custom under this definition. Obviously, that extends the scope of the definition of custom. Secondly, he suggests that the words 'opposed to public policy' should be deleted. That, again, means that a custom even though it may be opposed to public policy, according to the prevalent notions of public policy at any particular time, should have the sanctity of a custom as defined here. That, again, would be extending the scope of custom and not restricting it. I submit these suggestions should not be accepted. To me, it appears that the words 'opposed to public policy' are very necessary and essential. Because, our society, or any society is an ever-growing society and notions about morality, propriety and advisability of a thing change from time to time. We should not put a stop to that desirable change. A custom which has even been judicially recognised at any particular time, may 10 or 20 years thereafter appear to the society to be not a proper or desirable custom. At that time, it should be open to society and even to the law courts to declare that this custom,

though it has had recognition in judicial pronouncements, according to the changed conditions of society and the changed economic and social theories which have been adopted by society, should not be recognised as a valid custom. I therefore submit that this part, as it stands, should be accepted.

I submit the amendment suggested by my hon. friend Mr. Jhunjhunwala may be accepted because that appears to be a harmless thing. I beg to suggest, Sir, at this stage, if it may not be considered a late stage, to the hon. Law Minister that the words 'or family' in the substantive clause may be deleted. Because, to me, it appears.....

Mr. Deputy-Speaker: Where is the amendment?

Shri J. R. Kapoor:that a custom which has been in force only in a particular family should not be given the sanctity of a valid and recognised custom.

Dr. Deshmukh: It is already been given by the Hindu Law.

Shri J. R. Kapoor: We have in the sub-clause the words:

"signifies a 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."

Mr. Deputy-Speaker: The House is aware of that expression. The hon. Member has tabled a number of amendments. He never thought at any particular stage that these words should be dropped. I do not want to allow any time to be spent on this matter.

Shri J. R. Kapoor: I am not moving any amendment. I am opposing this particular part of the clause. I do not think I will have any further opportunity to suggest this. As for my not moving an amendment, I may be permitted to confess that having been very much disappointed in finding that none of my amendments are acceptable to the hon. Law Minister, I thought, rather than moving an amendment formally, I may informally suggest the thing to him so that he may himself move an amendment to that effect. In that case, it would be more easily acceptable to the House. Anyway, I have nothing further to submit on this point.

Shri Shiv Charan Lal (Uttar Pradesh): I think all the amendments should be negated and the clause as

[Shri Shiv Charan Lal]

it is should be accepted. Pandit Thakur Das Bhargava, being a lawyer—I am surprised to see—says that the words 'opposed to public policy' should be deleted. That is a very necessary thing. As society advances, the opinion of society carries more weight. Anything that is against that opinion should not be acceptable even though it may be an old custom. Pandit Thakur Das Bhargava also wants that the word 'uniformly' should be deleted. By the word 'uniformly' he seems to understand uniformly for all the people. It is not so. It may be the custom of one family. By uniformly, it is meant that it is followed continuously or uniformly and not changed. Therefore, the word 'uniformly' is also necessary.

He says that only those customs for which there are judicial pronouncements should be accepted. This is also wrong. There are certain judicial pronouncements which are now not good law because public opinion has changed. The people do not want that custom to continue. There are certain customs which are very well-recognised, but which have never gone to the courts and on which there are no judicial pronouncements. Therefore, I submit, all the amendments of Pandit Thakur Das Bhargava do not stand anywhere.

In the amendment of Mr. Jhunjhuna, he wants to add the word *varna*. There are no customs connected with any *varna*. All customs are connected with caste, families, certain areas. I do not know of any custom or any decision of any court where a custom has been recognised as a custom of a *varna*. That has never come before any court.

As to the amendment of Mr. Syamnandan Sahaya, he wants to delete the two provisos. These provisos are the life and soul of the whole definition. Therefore, they cannot be deleted. Therefore, Sir, I am in support of clause (i) as it is.

Shri B. K. P. Sinha: I think there is no force in the amendments moved to this clause. This clause, as put in by the hon. Law Minister is simple and embodies the law as it is. The critics have objected to the words "uniformity" and "public policy". But, it has been laid down by so many decisions and judgments of the various High Courts that a custom to be valid must be uniformly practised. Mr. Syamnandan Sahaya referred to some Privy Council Case in support of his contention that uniformity was not an

essential of valid custom. I could not catch him; therefore, I speak subject to correction. There is a distinction between social and religious customs and customs that prevail in the agriculture and trade field. So far as society and religion are concerned, custom and usage are rather interchangeable terms and there is very little distinction between the two. But, in the case of trade and agriculture, a distinction has been made between custom and usage. Custom is noted for its antiquity; it must come down from time immemorial. Usage is something which is in the process of growth; it is something new. The Privy Council case of which I know makes a distinction only so far as trade and agriculture are concerned. But, that is not germane or very relevant to this question, which is a social and semi-religious question. I have found in so many decisions uniformity is prescribed as a test of the validity of a custom. As regards public policy, I do not know why people have fears on this ground because I find that it has been laid down by the Privy Council, by the Patna, Calcutta and several other High Courts that a custom which is opposed to public policy shall not be valid. In this respect also, I find that the hon. Law Minister has, in his clause, embodied the law as it is. Moreover, if we go on making an exception in favour of all sorts of customs, what would be the basis and justification for this codification. Codification is mainly done to introduce uniformity and certainty. If we make exceptions in favour of customs prevailing in families, in different territories, etc., there would be no uniform law for the whole country, and the whole object of codification would be defeated. The second object of codification is that there will be something handy to which everybody can refer, with certainty. If we make exceptions in favour of customs, etc. this certainty would have gone. Therefore from any point of view, I see no reason why this clause should not be passed as it is, and why any amendment should be accepted.

Mr. Deputy-Speaker: I will now call upon the hon. Law Minister.

Babu Ramnarayan Singh (Bihar): Sir, I have also to say something.

Mr. Deputy-Speaker: But has not enough been said already?

जी बट्ट : मेरा तो संशोधन है ।

उपाध्यक्ष महोदय : आप का मंशोधन कान है, वह तो मैंने डिमैलाऊ (disallow) किया है।

श्री भट्ट : आपने तो ऐलाऊ (allow) कर दिया है।

Mr. Deputy-Speaker: But there is no particular charm about it. It is only a matter of recasting the words slightly.

श्री भट्ट : वह मुझे समझाना है कि मैं क्यों रख रहा हूँ। सिर्फ शब्दिक अदल-बदल के लिये नहीं पेश कर रहा हूँ।

बाबू रामनारायण सिंह : मैं बहुत देर तक खड़ा रह गया।

उपाध्यक्ष महोदय : मैं क्या करूँ ?

Shri V. J. Gupta: I do not want to make a speech, but I want to get a doubt cleared.

बाबू रामनारायण सिंह : मरी तरफ नजर जानी चाहिये थी।

Mr. Deputy-Speaker: It does not mean that just because an hon. Member stands a number of times he catches my eye. I must have some discretion in regulating the debate, and I might call upon certain Members and not certain others. But if there is yet time, we shall see.

Dr. Ambedkar: There is only one point to be explained and.....

श्री भट्ट : आपने मुझे मौका दिया है।

Mr. Deputy-Speaker: All right. I will call the Law Minister later. But after all it is a very formal and verbal matter that is dealt with in this amendment.

बाबू रामनारायण सिंह : नहीं जरूरी भी है साहब।

श्री भट्ट : मैंने जो संगोचन पेश किया है वह शब्दिक नहीं है। जो कुछ मैं उस में सुझाना चाहता हूँ वह सम्भव है कि माननीय मंत्रीजी को पसन्द न हो और वह अपना रवैया न बदलें क्योंकि मैं कायदे की दृष्टि से और वकील की दृष्टि से कोई बड़ा आदमी नहीं हूँ, और उन्हें अपनी बात न समझा सकूँ। मगर उन्हें दतना जरूर बतलाना चाहता हूँ कि वह जो चीज रख रहे हैं उस में कितनी कमी है। मैं इस की तरफ उन का ध्यान दिलाना चाहता हूँ।

रहले तो जो सवाल है वह कस्टम और यूसेज (custom & usage) की परिभाषा रखने का सवाल है। और वह परिभाषा जिस रूप में वे यहाँ पेश कर रहे हैं वह पर्याप्त नहीं है। इसको पर्याप्त करने के लिये और कितने शब्द जोड़े जा सकते हैं अगर वह खुद इस को सोचेंगे तो उन को शायद कुछ इस में घटाना और बढ़ाना पड़ेगा। कस्टम या यूसेज के माने जो रिवाज, रूढ़ि, प्रथा वगैरह हम कहते हैं उस के लिये उन्होंने जो व्याख्या बनानी चाही है उस व्याख्या में उन्होंने जरूरी लक्षण बतलाये हैं। कन्टिनुइटी (continuity), युनिफार्मिटी (uniformity), सर्टेन्टी (certainty) और नाट अपोज्ड टु पब्लिक पालिसी (not opposed to public policy) इन चार लक्षणों से वह इस चीज को सीमित करना चाहते हैं। मैं इस के बजाय और सादी परिभाषा सेच रहा हूँ। उस में मतलब वह का वही आ जाता है लेकिन जैसे उन्होंने बतलाया कि युनिफार्मिटी, तो इस युनिफार्मिटी के माने क्या हैं? अलग अलग जातियों में अलग अलग रिवाज होते हैं। एक जाति जिस का क्षेत्र करीबन एक हज़ार गांवों का होता हो तो वह एक हज़ार गांवों में भी अपने अलग अलग गोलों के लिये अलग अलग

[श्री भट्ट]

रिवाज और अलग अलग छूट देते हैं, और इसलिये एक ही जाति में अलग अलग जगहों के लिये युनिफार्मिटी अलग अलग होती है, वैरिएशन्स होते हैं अगर युनिफार्मिटी शब्द आप यहां पर रखेंगे तो आगे जाकर कोर्टों courts में झगड़ा होगा और वकीलों की जेबें ज्यादा भरेंगी। इस लिये आप इस शब्द को निकाल दीजिये क्योंकि वैरिएशन तो होगा ही। अगर एक विरादरी ने वैरिएशन किया क्योंकि उस का रिवाज है तो पहले उस को जमाने में पचास रुपये देने की सम्भावना थी, लेकिन आज के समय में पचास रुपया कोई चीज नहीं है, और उस का जितना प्रभाव पड़ना चाहिये वह नहीं पड़ता है और कोई कहे कि उस का जमाना १०० रुपया करते हैं तो आप कहेंगे कि यह युनिफार्मिटी नहीं रही। कल जो अच्छी चीज थी वह आप ने बदल दी— और वह आदमी बुरसों से कोर्ट में जाते हैं— तो युनिफार्मिटी किस चीज की मानी जायगी तो युनिफार्मिटी के लिये मान लेना चाहिये कि वैरिएशन्स तो होंगे ही। जब हमारे विधान में कायदे की व्याख्या की है धारा १३ में तो उस में उन्होंने क्या कहा है वह में पढ़ कर सुनाना चाहता हूँ :

“law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.

यहां “टेरीटरी आफ इंडिया” (Territory of India) के माने यह तो नहीं है कि सारे हिन्दुस्तान में एक रिवाज होने वाला है। सारे हिन्दुस्तान में एक आर्डर और नोटिफिकेशन तो नहीं होने वाला है। अलग अलग प्रान्तों में भारत सरकार भी अलग अलग चीज उन की रीति के अनुसार होती है : ला इन फोर्स (Law in force) के माने क्या है, यह भी मैं कहना चाहता हूँ। वह भी पढ़ कर सुनाऊं तो सही बात आप को मालूम

होगी कि वैरिएशन शब्द के माने मैं क्या मानता हूँ और युनिफार्मिटी शब्द के माने मैं क्या मानता हूँ।

“laws in force” include laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

तो इस से मैं यह बतला रहा हूँ कि जो युनिफार्मिटी शब्द आप रख रहे हैं उस से उलझन पैदा होगी, झगड़े पैदा होंगे और अगर इस शब्द को हटा दिया जाये तो उस से कोई नुकसान होने वाला नहीं है। आखिर, कस्टम माने क्या हैं। हम लोगों में समझ-बूझ है। कस्टम वह बात समझी जाती है जो कि रिवाज बाप-दादों के वक्त से चला आता है। आप कहेंगे कि फलानी चीज है वह कल तक चली आती थी, आज आप ने फरक कर दिया तो क्या इस लिये हम उस को कस्टम न मानेंगे। उस का प्रभाव आप पर कुछ पड़ेगा नहीं, अर्थ-शास्त्रियों पर कुछ प्रभाव नहीं पड़ेगा, तो अगर आप यह कर देते हैं तो ठीक नहीं होता है। अगर आप को कस्टम लाना है और रिवाज के माफिक कोई छूट देनी है तो आप ऐसा कीजिये कि जिस से लोग उस का फायदा उठा सकें। कस्टम के माने में तो जो लक्षण ला डिक्शनरी (Law dictionary) में दिये गये हैं व यह हैं

Custom—“It must have been used so long that the memory of man runs not to the contrary.”

“It must have been continued peaceable reasonably certain, compulsory and not left to the option of every person whether he will use it or not, and consistent with other customs, for one custom cannot be said to be in opposition to another.”

यह लक्षण दिये गये हैं इस के अनुसार आप इस चीज को भी बनाइये और इसी लिये मैं ने सुझाया है कि कन्टिन्यूअस (continuous) जो होते हैं, "हैविंग बीन इन वोग" (having been in vogue); यह शब्द कोई गलत तो है नहीं, अंगरेजी भाषा का शब्द है, और "इन वोग" वही होता है जो प्रचलित हो और प्रचारित हो। तो इस शब्द में यह सारी चीज आ जाती है, इसलिये मैं ने सुझाया है कि "हैविंग बीन इन वोग फौर ए लॉंग टाइम," "इट हैज बीन इन प्रैक्टिस फौर ए लॉंग टाइम" (It has been in practice for a long time)।

दूसरी चीज जो मैं ने रखी है वह यह है कि "व्हिच हैज आब्टेन्ड दि फोर्स आफ ला" (which has obtained the force of law)। यह मामूली सी चीज है। इस को महत्व देंगे, इस को प्रतिष्ठित बनायेंगे तो वह प्रतिष्ठित रूढ़ि हो जायेगी।

तीसरे यह कहा है कि पब्लिक पालिसी (public policy) या पब्लिक मोरैलिटी (public morality) मेरी समझ में नहीं आता कि आप जिस चीज के लिये यह कानून बना रहे हैं और जिस में रूढ़ियों की गुंजाइश है तो उस में आप कोई चीज "पब्लिक पालिसी" को क्यों रखना चाहते हैं। आप कहेंगे कि हम रिवाज को मानेंगे तो वहाँ वह रिवाज चलेगी और कहीं वह रिवाज चलने वाला नहीं है। तो फिर कौन सा रिवाज ऐसा होगा जो पब्लिक पालिसी के खिलाफ होगा। पब्लिक पालिसी के मानी क्या हैं। यह एक शब्द चला आता है। किसी वकील या न्यायाधीश ने कभी इस का इस्तेमाल किया होगा इसी लिये हम भी इस्तेमाल करते हैं। हमें समझ तो लेना चाहिये कि पब्लिक पालिसी से क्या मतलब है। मैं तो समझता हूँ कि कोई भी शब्द पब्लिक पालिसी या पब्लिक मोरैलिटी

रखने की जरूरत नहीं है। आखिर जहाँ कायदे में रूढ़ि के लिए गुंजाइश होगी वहीं उस रूढ़ि का उपयोग हो सकेगा और कहीं तो होने वाला नहीं है। इसलिये मैं कहता हूँ कि पब्लिक पालिसी या पब्लिक मोरैलिटी की क्या जरूरत है।

इतना कहते हुए मैं अब कास्ट (caste) और सब-कास्ट (sub-caste) के बारे में कहना चाहता हूँ। यह सुझाव मैं अपनी तरफ से नहीं दे रहा हूँ। यह शब्द तो हमारे विधान की धारा १५ और १६ में इस्तेमाल हुए हैं। कल धारा २ में हम ने कम्युनिटी (community) शब्द रखा है। विधान में हम ने कम्युनिटी शब्द नहीं रखा है पर कास्ट शब्द रखा है। मेरा कहना है कि यहाँ कम्युनिटी के बजाय कास्ट या सब-कास्ट ज्यादा उपयुक्त होंगे। मैं यहाँ नहीं कहता कि कम्युनिटी शब्द को निकाल दिया जाय क्योंकि उस को हम ने कल ही रखा है लेकिन उस के अलावा इन दोनों शब्दों को भी जोड़ दें तो कोई नुकसान होने वाला नहीं है। इन शब्दों के साथ मैं अपना संशोधन पेश करता हूँ। इस के फलीभूत होने की आशा तो बहुत ही कम है, पर फिर भी मैं आशा करता हूँ कि माननीय मंत्री जी इस पर विचार करेंगे।

(English translation of the above speech)

Shri Bhatt: I have got an amendment.

Mr. Deputy-Speaker: Which is your amendment? I have disallowed it.

Shri Bhatt: You have allowed it.

Mr. Deputy-Speaker: But there is no particular charm about it. It is only a matter of recasting the words slightly.

Shri Bhatt: That I am to explain as to why I was putting it. I am not moving it simply for recasting of the words.

Babu Ramnarayan Singh: I kept standing for long.

Mr. Deputy-Speaker: What should I do?

Shri V. J. Gupta (Madras): Sir, I do not want to make a speech, but I want to get a doubt cleared.

Babu Ramnarayan Singh: Your eye should have caught me.

Mr. Deputy-Speaker: It does not mean that just because an hon. Member stands a number of times, he catches my eye. I must have some discretion in regulating the debate, and I might call upon certain Members and not certain others. But if there is yet time, we shall see.

Dr. Ambedkar: There is only one point to be explained and.....

Shri Bhatt: You have given me time.

Mr. Deputy-Speaker: All right. I will call the Law Minister later. But after all it is a very formal and verbal matter that is dealt with in this amendment.

Babu Ramnarayan Singh: No, Sir, it is important too.

Shri Bhatt: The amendment moved by me is not verbal. The thing which I want to stress in it may possibly not be acceptable to the hon. Minister and he may not be inclined to change his attitude. As a matter of fact, as a lawyer I am not so competent as to convince him, but I want to tell him and draw his attention to certain things lacking in the measure that is being sponsored by him.

The first point is about the definition of 'custom and usage' which he has put here in an insufficient form. On reconsideration he will himself feel inclined to reduce or add a few words to convey the complete sense.

By 'custom and usage' we mean traditions, conventions and routine practices. The definition being propounded by him for it limits the sense to four essential attributes, viz., continuity, uniformity, certainty and its not being opposed to public policy. In its place I am thinking of a simpler definition which may precisely convey the same sense. But he has talked of uniformity. What does this uniformity mean? Different castes have their different customs. Even a single caste, spread roughly over a thousand villages, allows various concessions and different usages to the separate circles, and therefore even in a single caste there is a separate sort of uniformity for separate places. There are variations. Therefore the word uniformity would give rise to a lot of litigation and benefit the lawyers. It may therefore be dropped as variation is inevitable.

If a community made certain variations, it being its usage, it was likely to pay a fine of Rs. 50. But now-a-days Rs. 50 mean nothing and cannot have affect to the desired extent and therefore if one suggests to increase the fine to Rs. 100 you would say that uniformity is not there. Today you change a thing which was good till yesterday, then where is uniformity? Therefore, as regards uniformity we should agree that variations are bound to be.

I shall quote here from Article 13 of the Constitution to explain how the word 'law' has been defined there:

"law includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law."

Here 'territory of India' does not mean that there is going to be only one custom throughout India. There is not going to be any one order or notification applicable throughout India. The Government of India decides its policy for each State according to circumstances prevailing there.

I also want to tell you what is meant by 'law in force', and this will explain what I understand from the words 'variations' and 'uniformity':

"laws in force' include laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas."

So, I want to suggest that the word 'uniformity' used here will make complications and nothing will be lost if it is dropped. After all what does this 'custom' mean? We are educated enough to understand that 'custom' is an usage prevalent from the time of our forefathers. You might quote certain thing prevalent upto yesterday, in which you have made a change today, but, for that reason, shall we not take it as custom and will it not affect us? It may not affect economists, but it is not proper. Therefore, if you want to bring the word 'custom' and allow some concession according to it, it may be put in a way that people may get something through it.

'Custom' has been defined in the Law Dictionary as follows:

"It must have been continued, peaceable, reasonably certain, common runs not to the contrary."

"It must have been continued, peaceable, reasonably certain, compulsory and not left to the option of every person whether he will use it or not, and consistent with other customs, for one custom cannot be said to be in opposition to another."

These things should be taken into consideration. I have suggested that the word "continuous" was equivalent to 'having been in vogue'. This is not a wrong word, 'in vogue' being a comprehensive word of the English language meaning a thing prevalent and in practice. That is why I have proposed: 'having been in vogue for a long time', 'it has been in practice for a long time'.

The second thing which I have put is: 'which has obtained the force of law'. This is a simple thing and if accepted will become a recognised convention.

The third point I have taken is about 'public policy' or 'public morality'. I fail to understand that if conventions find place in the proposed measure, where was the necessity for the word 'public policy'? You might say that only accepted customs will be allowed at a place and not others, then which customs will be against public policy? What does 'public policy' mean? The word might have dropped from some lawyer or judge and we are now using it, but we should be clear about the meaning of 'public policy'. I think there is no necessity for any such expression as 'public policy' or 'public morality'. After all where there will be a place in law for conventions, only there the conventions will be followed. So I do not find any necessity for these words.

Now I want to say something about caste and sub-caste. The words are not my own; they have been used in Articles 15 and 16 of our constitution. We used the word 'community' in Clause 2 yesterday. We have not used the word 'community' but the word caste in the Constitution. In my opinion the words 'castes and sub-castes' will be more proper here in place of the word 'community'. I do not mean that the word 'community' may be dropped as we have included it only yesterday, but there is no harm if these two words are also added.

With these words I move my amendment. There is very little likelihood

of its being carried, but the hon. Minister will please think over it.

बाबू रामनारायण सिंह : उपाध्यक्ष महोदय, मेरा निवेदन यह है कि आप का निर्णय बहुत अच्छा और सब के लिये शिरोधार्य है। लेकिन कभी आप द्रुतनी जल्दी निर्णय कर लेते हैं जो खटक जाता है। इसलिये मेरी विनय है कि आप जल्दी से यह निर्णय न कर दें कि इस विषय पर यथेष्ट बहस हो गई है। मैं निवेदन करता हूँ कि मैं कई बार उठ चुका हूँ। हमारी तरफ़ भी आपकी नज़र पड़नी चाहिये थी और हम को आज्ञा दी जानी चाहिये थी। वैसे आपकी मर्जी।

(English translation of the above)

Babu Ramnarayan Singh: Sir, I submit that the decision arrived at by you is very nice and acceptable to all. But sometimes you make decisions in such a haste that it pinches us. Therefore, I entreat you not to decide in haste on the ground that there has been sufficient debate upon the measure. I submit that I also stood up so many times, your eye should have caught me and I should also have been allowed to speak.

Shri V. J. Gupta: I have a doubt to be clarified. In the definition it is said:

"The expressions 'custom' and 'usage' signify a 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."

As you know in our parts marriage between a young man and his maternal uncle's daughter is allowed in many communities. It is a common custom though it is not uniformly or continuously observed.

Mr. Deputy-Speaker: You must read the entire chapter. There is a special exception made.

Shri V. J. Gupta: Further it is said "opposed to public policy". A practice is called a custom when observed by all the people of a locality. When it is observed by all people uniformly how can it be opposed to public policy?

Dr. Deshmukh: I want to oppose this.

Mr. Deputy-Speaker: You can vote against it.

Babu Ramnarayan Singh: We would like to speak also on it.

Mr. Deputy-Speaker: I know hon. Members have a right to speak but I have looked round and I am satisfied that there has been a sufficient debate. If the hon. Member wants that the formality of a question being put should be observed, let someone move it and I shall put it to the House.

Shri Santhanam: Sir, the question be now put.

Mr. Deputy-Speaker: The question is:

"That the question be now put."

The motion was adopted.

Babu Ramnarayan Singh: My voice was louder than their voice!

Dr. Ambedkar: In my previous intervention I had explained already both the position of this sub-clause in relation to clause 4 and how the question of custom has been dealt with generally *vis-a-vis* the Code.

With regard to the exact terms which have been used to define the expression 'custom' I am sorry to say that it is not possible for me to accept any of the amendments suggested. This definition, as I have said, has been copied verbatim from judicial decisions of the highest tribunal in our country as well as in all other countries, where custom has been judicially defined. I do not think therefore that any ground has been made out for me to depart from the definition proposed in the sub-clause.

Mr. Deputy-Speaker: The question is:

In clause 3, for the words "unless there is anything repugnant in the subject or context" substitute "unless the context otherwise requires".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In clause 3, renumber the existing items (i), (ii), (iii), and (iv) as items (ii), (iii), (iv) and (v) and insert the following as item (i), namely:

"(i) 'Aliyasantana law' means the system of law applicable to persons, who, if this Code had not been passed, would have been governed by the Madras Aliyasantana Act, 1949 (Madras Act IX of 1949)."

The motion was adopted.

Mr. Deputy-Speaker: With the renumbering of the parts as adopted by the previous amendment all the amendments relating to part (i) now relate to the present part (ii). I shall put them to the House one by one.

The question is:

In part (i) renumbered as part (ii) of clause 3, for the words "among Hindus" substitute the words "among persons to whom this Code applies".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (i) renumbered as part (ii) omit the words "and uniformly".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (i) renumbered as part (ii) of clause 3—

(a) after the words "group or family" occurring in line 4, add the following:

"or any rule which is certain not unreasonable and has been judicially recognised as valid and binding in any local area, tribe, community, group or family"; and

(b) Omit the first proviso.

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (i) renumbered as part (ii) after the word "tribe" insert the word "Varna".

The motion was negated.

Mr. Deputy-Speaker: In view of this amendment No. 413 having been negated amendment No. 414 does not arise.

The question is:

Omit the Provisos to part (i) renumbered as part (ii) of clause 3.

The motion was negated.

Mr. Deputy-Speaker: The question is:

For Part (i) renumbered as part (ii) of clause 3, substitute the following:

"(ii) the expressions 'custom' and 'usage' signify any rule which having been in vogue for a long time, has obtained the force of law among Hindus in any local area, caste, sub-caste, tribe, community, group or family:

Provided that the rule is certain and not unreasonable; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That part (i) renumbered as part (ii) of clause 3, stand part of the Bill."

The motion was adopted.

Shri Naziruddin Ahmad: I have amendment No. 377 to part (ii).

Dr. Ambedkar: I would very much like to make a suggestion here because that will shorten the labour. As you will see, some of the definitions given in part (ii) not only apply to marriage and divorce but they also were intended to apply to the other parts of the Code. In view of what has transpired, it would be necessary for me at a subsequent stage to amend this definition and to narrow it down to the provisions relating to marriage and divorce. Therefore, what I was going to suggest to the House is to pass this in a formal manner without attaching any great importance to it, because I shall come back to it when I deal with consequential amendments and then the matter may be dealt with at great length if they want. For the moment I am not very particular about this definition because I see that I will have to amend it.

Mr. Deputy-Speaker: Is there any objection to allowing this to stand over this part alone?

Dr. Ambedkar: I have no objection.

Mr. Deputy-Speaker: In view of what has transpired, some consequential amendments have to be made later. So, I will allow this part to stand over.

Shri Santhanam: It will mean the whole clause standing over. But after passing parts (viii) and (ix) the whole clause has to be put.

Mr. Deputy-Speaker: It is in the discretion of the Chair to put the whole clause or put it part by part. As a matter of fact, I have placed it part by part and we have already adopted two parts.

Shri Bharati: Definitions may be added at any time.

Mr. Deputy-Speaker: If the Bill is going to be restricted in scope then what is the harm in doing so?

Shri Naziruddin Ahmad: My amendment is for this very purpose, Sir.

Mr. Deputy-Speaker: The hon. Member has thought much in advance and the hon. Minister is only accepting what he is saying. So, this matter will stand over.

Shri Naziruddin Ahmad: I have no objection.

Shri Bharati: The words "full blood" and "half blood" do not occur in the part of the Code which we intend to pass. Originally we had intended to pass the whole Code and these words were necessary. Now that these words do not occur in this part we may as well drop them.

Dr. Ambedkar: They may arise in connection with prohibited degrees, *sapindaship* and so on. Therefore, my suggestion is that it might be desirable at this stage to pass the part and if at a later stage I find it is necessary to make some amendments I will do so.

Shri Bharati: After all these are definitions of words which must have a reference to the words occurring in the subsequent chapters. If we do not see these words at all in the chapters on marriage and divorce I do not see any virtue in having the definition.

Shri Naziruddin Ahmad: This part is amended by amendment No. 360 which is the latest version of this part. But even there terms like "uterine blood" appear.

Dr. Ambedkar: My suggestion is that the better thing would be to allow these definitions going through; if subsequently we find it necessary to change we shall change it, because, as I have already stated, I reserve the right of bringing appropriate amendments in view of what has happened with regard to this Code.

Mr. Deputy-Speaker: In any way, without any doubt this is required for the chapters on marriage and divorce. And these terms are there both in the original part and in the amended one.

Now I will put part (iii) to vote.

The question is:

"That part (iii) renumbered as part (iv) of clause 3 stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In the explanation to item (iv) renumbered as (v), for "this clause" substitute "clauses (iv) and (v)".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That part (iv) renumbered as part (v), as amended, stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In clause 3, after part (iv) renumbered as part (v) add the following new part:

“(vi) ‘Marumakkattayam law’ means the system of law applicable to persons—

(a) who, if this Code had not been passed, would have been governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933) the Travancore Nair Act, II of 1100, the Travancore Ezhava Act, III of 1100, the Nanjindad Vellala Act, 1101, the Travancore Kashatriya Act, 1108, the Travancore Krishnavaka-Marumakkathayee Act, 1115, the Cochin Thiyya Act, VIII of 1107, the Cochin Nayar Act, XXIX of 1113, or the Cochin Marumakkathayam Act, XXXIII of 1113; or

(b) who belong to any community, the members of which are largely domiciled in the State of Travancore-Cochin or Madras, and who, if this Code had not been passed, would have been governed by any system of inheritance in which descent is traced through the female line; but does not include the Aliyasantana law;”

The motion was adopted.

Shri Naziruddin Ahmad: This is subject to reconsideration.

Mr. Deputy-Speaker: No. We have passed the Aliyasantana law.

Dr. Ambedkar: The substance may be reconsidered.

Mr. Deputy-Speaker: So far as the language is concerned, the hon. Member is always at liberty to suggest any modifications.

The question is:

In clause 3, after the definition of “Marumakkattayam law” add the following new part:

“(vii) ‘Nambudri law’ means the law applicable to persons who, if this code had not been passed, would have been governed by the Madras Nambudri Act, 1932 (Madras Act XXI of 1933), the Cochin Nambudri Act (XVII of 1114), or the Travancore Malayala Brahmin Act of 1106 (Regulation III of 1106);”

The motion was adopted.

Mr. Deputy-Speaker: Now, we come to part (viii)—that is the original part (v). It says “Part” means any Part of this Code—Does he want it to go in?”

Dr. Ambedkar: For the moment, it is very difficult for me to say what I want to amend or excise. I want time to consider. Later on I may change it to ‘Bill’ or ‘Chapter’.

Mr. Deputy-Speaker: Then I will leave the original (v) [the present (viii)] to stand over.

Now, I come to the definition of “prescribed”.

Capt. A. P. Singh (Vindhya Pradesh): I want to add the definition of “Kul” in the definition clause.

Mr. Deputy-Speaker: Let us finish these first. The question is:

“That part (vi) renumbered as part (ix) of clause 3 stand part of the Bill.”

The motion was adopted.

Shri Bharati: Is it understood that the word ‘Code’ may be changed?

Dr. Ambedkar: It will be appropriately changed.

Mr. Deputy-Speaker: Part (vi) relating to definition of ‘prescribed’ as renumbered is accepted. Now, we come to part (vii) relating to definition of ‘related’. It is renumbered as (x). The question is:

“That part (vii), renumbered as part (x) of clause 3 stand part of the Bill.”

The motion was adopted.

Mr. Deputy-Speaker: Now we come to part (vi) of amendment No. 5 by Dr. Ambedkar. It says—in item (viii) as so renumbered, for ‘any’ substitute ‘a’.

Dr. Ambedkar: Originally it was ‘any part’. I now say ‘a part’. But you will remember that you have held over renumbered part (viii). So, this will also stand over.

Mr. Deputy-Speaker: Then we come to the definition of ‘son’—part (viii) of the original clause.

Pandit Thakur Das Bhargava: I have got an amendment here. It is No. 127.

Dr. Ambedkar: It is a kind of power of attorney.

Shri Rajagopalachari: It is a kind of adoption in Punjab.

Sardar Hukam Singh: It is not power of attorney. It is made-easy.

Pandit Thakur Das Bhargava: I beg to move:

For part (viii) renumbered as part (xi) of clause 3, substitute the following:

“(xi) ‘son’ includes an appointed heir and an adopted son whether appointed or adopted before or after the commencement of this Code but does not include an illegitimate son.”

As the House probably knows, the appointment of a heir is a special custom in Punjab.

Mr. Deputy-Speaker: We were considering the definition of ‘son’. So far as an heir or a person who is appointed as an heir is concerned, it may be that he may be appointed as an heir for the purpose of the property. In fact, it may be a person who may be fit enough to marry the daughter of the person appointing him as the heir.

Pandit Thakur Das Bhargava: By custom, he is equivalent to a son. Therefore, he cannot marry his own sister. The person who is appointed as heir carries an intimate relationship. He is just like a son for all practical purposes.

Mr. Deputy-Speaker: Even to the extent of coming into the prohibited degree?

Pandit Thakur Das Bhargava: Yes. He comes into that family. There are several customs with regard to appointed heirs in the territory which is now under the Commissionership of Ambala. It is just like adoption. There is absolutely no difference between adoption and the appointment of an heir. The ceremonies even are sometimes the same. The person who is appointed as heir is treated more or less as the son. He cannot marry the daughter of the appointer, because the daughter of the appointer is his sister. No person in Punjab will ever believe that the daughter of the appointing father can possibly be married to that boy. He could not marry even a cousin. He is treated just like a son. The only difference is that so far as the eligibility of an heir is concerned, he may be a married man with sons and daughters.

Dr. Ambedkar: He can also be a man with *dhadi*.

Shri Rajagopalachari: The hon. Member will perhaps educate us in the matter—is it open, according to that

custom to appoint one's own son-in-law as his son?

Pandit Thakur Das Bhargava: In that case he is called ‘ghar-jawai’.

Mr. Deputy-Speaker: Corresponding to this there is a custom in the south—it is called ‘illatom adoption’.

Pandit Thakur Das Bhargava: This custom is not only judicially recognised; it is so widely prevalent that it is as good as law. It is a fully established custom; it has got more force, perhaps, than the ordinary law of the land. It is universally acknowledged among the Hindus, Sikhs as well as the Muslims. The relationship created thereby is not merely of gift, or mere appointment of a heir. The relationship is personal; the appointed heir is treated as a son and he lives with the father.

Dr. Ambedkar: For property purposes.

Pandit Thakur Das Bhargava: For property purposes as well as for relationship. He cannot marry the daughter, as an outsider does. Therefore it is not a question of merely property; it is a question of personal relationship.

Mr. Deputy-Speaker: Can the son be older than the father?

Pandit Thakur Das Bhargava: He can be older, just as a nephew can be older than the person adopting. Supposing a brother adopts the son of a brother. The son of a brother may be older to him in age than the person appointing.

Mr. Deputy-Speaker: Is there any ceremony attached to it?

Pandit Thakur Das Bhargava: It is done in several ways. It must be made public; so there is a registered deal in some cases. The entire family is collected and the boy is accepted as heir. In some places even the ceremony is gone through. Practically it is tantamount to adoption.

Mr. Deputy-Speaker: In those parts where this custom is prevalent, is there regular adoption as well? Or is it the contention that wherever this custom of having ‘appointed heir’ prevails, regular adoption does not take place?

Pandit Thakur Das Bhargava: This is, as a matter of fact, in addition to that.

Mr. Deputy-Speaker: Can a man have both an adopted son as well as an appointed heir.

Pandit Thakur Das Bhargava: Even in a family, one brother may have an adopted son; while another brother may have an appointed heir. But there is no difference so far as relationship is concerned. This custom obtains among Muslims as well.

Khwaja Inait Ullah (Bihar): In Muslim law there is no adoption.

Pandit Thakur Das Bhargava: I am not dealing with Muslim law; I am speaking of Muslim customs. Almost every Punjabi Muslim follows custom.

Mr. Deputy-Speaker: But is it so prevalent that it can be brought under this definition.

Pandit Thakur Das Bhargava: Nobody can doubt the validity of this custom. You can take any treatise on customary law and you will find that the appointment of a heir is a customary practice.

Shri Radhelal Vyas: Is a female appointed as an heir?

Pandit Thakur Das Bhargava: But she cannot become a son.

Dr. Ambedkar: In view of the fact that it has been decided to confine this Bill to marriage and divorce, the point raised by my hon. friend may very well come when we are dealing with the matter of adoption. There we can discuss this question as to whether we can include what he calls an appointed son in the definition of adopted son. There, if he is able to satisfy that that custom is a custom which this House should permit, in view of the definition which we have just now passed, we will consider that question. Here we are for the moment dealing with marriage and divorce.

Pandit Thakur Das Bhargava: But you have used the word "son" here; otherwise there will be no need for any definition.

Dr. Ambedkar: As you know in the Chapter on Adoption, we have tried to introduce a uniform system, we are not recognising any of the variants of adoption. We say that adoption should be one common system throughout. We have also said there that so far as the ceremonies of adoption are concerned, they may be different. We do not bother about it. If the appointment of a son is satisfactory from the point of view of the definition of adoption, namely, the giving and the taking, the putting of the sugar in the mouth of the boy and the performance of some sacrifice, well the particular ceremonies by which they do it will not make the appointed son an adopted son.

Pandit Thakur Das Bhargava: Unfortunately, I have not been able to express myself in a way as to carry conviction to Dr. Ambedkar.

Mr. Deputy-Speaker: The point raised by Pandit Bhargava has relevance to marriage as well.

Dr. Ambedkar: I am afraid without a perfect understanding of the custom, I am not able to come to any decision—the circumstances, the custom, the reasonableness or otherwise. Nor has my friend been able to give us any clear picture. I want to apply my mind to that subject and come to a conclusion as to whether it would be possible for Government to accept his proposal. All of a sudden it is not possible.

12 Noon.

Pandit Thakur Das Bhargava: Let it be held over.

Dr. Ambedkar: We can add it afterwards.

Mr. Deputy-Speaker: May I suggest one course? As it is there is no objection to passing this. The only attempt is to include some other category. Therefore this may be passed now, because we are not passing the entire clause 3. We can add one more category later. With that understanding I will put this part to the vote of the House. The question is:

"That part (viii) renumbered as part (xi) of clause 3 stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: Now we will proceed to clause 4.

Capt. A. P. Singh: I have already requested you that one definition should be added after part (viii). The amendment is No. 378 and is about the definition of *Kula*. It may surprise some hon. Members as to why I want that this word should be defined. But if you see amendment No. 387, there I have said that "the parties do not belong to the same *Kula* where by custom such marriages are prohibited." I want this word to be defined here so that marriages may not take place within the same *Kula*.

Dr. Ambedkar: May I just explain the position. I am afraid that this amendment, although it is a definition, really relates to clause 7—Essentials for a valid Dharmik marriage—where certain conditions for a valid Dharmik marriage have been set out. My friend wants substantively to add one more condition that the parties to a marriage

should not belong to the same Kula. If that amendment is accepted, then and then alone would a definition of 'Kula' be necessary, although it may be argued that 'Kula' is such a well known term that no definition is necessary. But suppose when we are dealing with clause 7 this matter is taken up and the House accepts the amendment, then and there we can introduce the definition of 'Kula'. Therefore no definition of 'Kula' is necessary now.

Capt. A. P. Singh: My difficulty is this. Whenever any such thing comes it is generally said "The word has not been defined". Therefore I wanted that "Kula" should be defined now and let us be clear on this point. But if it can be done later I have no objection.

Mr. Deputy-Speaker: If in clause 7 this is not going to be accepted, the definition here will become useless. But if on the other hand it is accepted and a definition is found necessary a consequential amendment will be made here. I am not closing the door.

Dr. Ambedkar: Or it can be done by an Explanation as to what is meant by 'Kula'.

Mr. Deputy-Speaker: Clause 3 is not completed. Or, as the hon. the Law Minister said, we can give it as an Explanation.

Capt. A. P. Singh: Then it may be held over.

Mr. Deputy-Speaker: Now we shall take up clause 4.

Clause 4—(Overriding effect of Code)

Dr. Ambedkar: I beg to move:

For clause 4, substitute:

"4. *Overriding effect of Code.*— Save as otherwise expressly provided in this Code:—

(a) any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect, in so far as it is inconsistent with any of the provisions contained in this Code."

The purpose of the amendment is this. As the House will see, we had originally one single clause with no sub-clauses and the provisions of the Code relating to custom and interpretation of law and those relating to

other laws passed and in force were put together. It was felt that it was not the desire of this Bill to abrogate all law but only in so far as it is inconsistent with the provisions of the Bill. I therefore felt that the best course was to split clause 4 into (a) and (b) leaving rule, interpretation and custom to be covered by (a) and any law in force to be dealt with by (b) with the limitation that no law shall be abrogated unless it was inconsistent with this Code. It is not our intention that all laws should be abrogated by this. That is the purpose of this amendment.

Mr. Deputy-Speaker: Amendment moved:

For clause 4, substitute:

"4. *Overriding effect of Code.*— Save as otherwise expressly provided in this Code:—

(a) any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code; and

(b) any other law in force immediately before the commencement of this Code shall cease to have effect, in so far as it is inconsistent with any of the provisions contained in this Code."

Dr. Deshmukh: I beg to move:

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, omit the words "or any custom or usage".

Shall I speak on it now or afterwards?

Mr. Deputy-Speaker: I shall first have all the amendments that hon. Members intend moving and then allow the discussion. Amendment moved:

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, omit the words "or any custom or usage".

Dr. Ambedkar: I do not understand it.

Mr. Deputy-Speaker: It is that if there is a custom it shall continue. I take it that the object of the amendment is that notwithstanding any of the provisions of this Code any custom in force before the commencement of the Code will override what is now sought to be abrogated. Is that so?

Dr. Deshmukh: Yes.

Mr. Deputy-Speaker: We will assume two things. Wherever it is not provided for, the custom will prevail. There is no doubt about it. But wherever there is some provision here, the custom will be abrogated. Custom where it is inconsistent will be abrogated by the amendment. The hon. Member wants that custom not only where it is provided for here but also where it is not provided for must override the text of law. That is the position. I will ask to reply to this later on.

Sardar Hukam Singh: I beg to move:

In clause 4, omit the words "or any custom or usage".

Mr. Deputy-Speaker: It is the same thing.

Sardar Hukam Singh: My suggestion is that custom would continue in spite of this Act.

Mr. Deputy-Speaker: Amendment moved:

In clause 4, omit the words "or any custom or usage".

Pandit Thakur Das Bhargava: I beg to move:

For clause 4, substitute the following:

"4. Any text, rule or interpretation of Hindu Law or any customary usage in force immediately before the commencement of this Code shall have effect with respect to any of the matters not dealt with in this Code."

This is the positive side of the matter.

Mr. Deputy-Speaker: Whatever is not provided in this Code shall have effect.

Dr. Ambedkar: That would be so, when we close with clause 55.

Pandit Thakur Das Bhargava: What I say is that these things will persist as a positive fact and there is not much difference between the two.

Mr. Deputy-Speaker: Amendment moved:

"4. Any text, rule or interpretation of Hindu Law or any customary usage in force immediately before the commencement of this Code shall have effect with respect to any of the matters not dealt with in this Code."

Pandit Thakur Das Bhargava: There is another amendment in my name No. 449. I beg to move:

For clause 4, substitute the following:

"4. Any custom or usage in force immediately before the commencement of this Code shall be binding and shall override all texts rule or interpretation of the Hindu Law or any provision of any other law and shall have precedence in all matters relating to marriage and divorce."

This is an antithesis of section 4 and this is only to bring out into ironical relief the place what my hon. friend Dr. Ambedkar wants to give to 'custom' which I personally do not approve.

Mr. Deputy-Speaker: I am trying to put down categories so that I may insert all the amendments under a particular group. Amendment No. 128 relates to custom wherever there is no provision of law in this Bill. Then amendment No. 449 says that notwithstanding any provisions in this Bill all the previous custom shall stand.

Shri Santhanam: It is a direct negation of clause 4.

Mr. Deputy-Speaker: Amendment moved:

For clause 4, substitute the following:

"4. Any custom or usage in force immediately before the commencement of this Code shall be binding and shall override all texts, rule or interpretation of the Hindu Law or any provision of any other law and shall have precedence in all matters relating to marriage and divorce."

Shri Naziruddin Ahmad: I beg to move:

For clause 4, substitute the following:

"4. All texts, rules or interpretations of Hindu Law or all customs and usages and all other laws in force immediately before the commencement of this Act, in so far as they may be inconsistent with this Act, shall, to the extent of the inconsistency, cease to have effect."

I have another amendment, Sir.

Mr. Deputy-Speaker: Is it necessary?

Shri Naziruddin Ahmad: That is more elaborate. I beg to move:

For clause 4, substitute the following:

"4. All texts relating to, and all rules of interpretation of Hindu Law in the sacred books or in judicial pronouncement or superior courts in India or of the Judicial Committee of the Privy Council or in the text books and commentaries of learned writers and authors or otherwise, and all customs and usages in force immediately before the commencement of this Code, in so far as they are inconsistent with this Code, shall, to the extent of the inconsistency, cease to have effect."

Mr. Deputy-Speaker: This is in another form.

Shri Naziruddin Ahmad: It is in a more elaborate form, containing more elements.

Mr. Deputy-Speaker: It is different in substance.

Shri Naziruddin Ahmad: Though in minor details.

Mr. Deputy-Speaker: Amendments moved:

For clause 4, substitute the following:

"4. All texts, rules or interpretations of Hindu Law or all customs and usages and all other laws in force immediately before the commencement of this Act, in so far as they may be inconsistent with this Act, shall, to the extent of the inconsistency, cease to have effect."

For clause 4, substitute the following:

"4. All texts relating to, and all rules of interpretation of Hindu Law in the sacred books or in judicial pronouncement of superior courts in India or of the Judicial Committee of the Privy Council or in the text books and commentaries of learned writers and authors or otherwise, and all customs and usages in force immediately before the commencement of this Code, in so far as they are inconsistent with this Code, shall, to the extent of the inconsistency, cease to have effect."

Shri Jhunjunwala: I beg to move:

To clause 4, add the following Proviso:

"Provided, however, that this Code shall not override any text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force, immediately prior to the commencement of

this Code which has the sanction of Hindu religion or any other religion to the followers of which religion or religions this Code will apply:

Provided further that this Code shall not override such existing text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force which has sanction of morality behind it."

Sir, then I have another amendment, No. 418.

Mr. Deputy-Speaker: Is it a repetition of No. 130?

Shri Jhunjunwala: This is not a repetition but slightly different. I beg to move:

In the amendment proposed by Dr. Ambedkar, to the proposed clause 4, add the following Proviso:

"Provided that this Code shall not override such existing usage, custom and law as form part of the distinct culture of any section of the people to whom this Code applies."

Mr. Deputy-Speaker: Who is to decide what the distinct culture is? Whatever may be the substance so far as any Code is concerned, before I put it to the House, there must be some definite thing which is enforceable in a Court of Law.

Shri Jhunjunwala: That is found in Article 29 of the Constitution that different sections of society have got different culture and that should be conserved.

Mr. Deputy-Speaker: The hon. Member wants distinct culture to be established in a court of law.

Shri Jhunjunwala: It is in the Constitution itself.

Mr. Deputy-Speaker: There is no definition of culture as there is a definition of custom as it is provided for here. I am not aware if there is any judicial interpretation of what distinct culture is up till now.

Shri Jhunjunwala: That is already in the Constitution.

Shri Santhanam: It must be in the directive principles.

Dr. Ambedkar: It must be somewhere in the directive principles or it might be in the provisions relating to religion and so on.

Mr. Deputy-Speaker: Amendments moved:

To clause 4, add the following Proviso:

"Provided, however, that this Code shall not override any text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force, immediately prior to the commencement of this Code which has the sanction of Hindu religion or any other religion to the followers of which religion or religions this Code will apply:

Provided further that this Code shall not override such existing text, rule or interpretation of Hindu Law, or any custom or usage or any other law in force which has sanction of morality behind it."

In the amendment proposed by Dr. Ambedkar, to the proposed clause 4, add the following Proviso:

"Provided that this Code shall not override such existing usage, custom and law as form part of the distinct culture of any section of the people to whom this Code applies."

Shri Sarwate (Madhya Bharat): I beg to move:

To clause 4, add the following Proviso:

"Provided that the Legislature of a State may, by legislation passed by a majority of the total number of its or their members, provide that any of the provisions of this Act shall not apply to that State, or shall apply to that State with such modifications, as may be included in the legislation."

Mr. Deputy-Speaker: How does it arise in this clause? Any amendment must be relevant to the clause that is on hand.

Shri Sarwate: Because this would supersede all laws which are inconsistent. As the clause stands at present, it has the effect of superseding all the laws which the State might have passed before. By this amendment I wish to give them the power, if they so wish, in future to restore them. There may be certain provisions which may not be applicable to the State. That State, if otherwise it has the power under the Constitution to legislate, should have the power and it should not be precluded from further legislating on this matter owing to the effect of this clause.

Mr. Deputy-Speaker: I do not understand what this amendment means. This amendment, at any rate, must have relation to clause 1. Then, I think we have disposed of a similar amendment with reference to clause 2.

Dr. Ambedkar: Pandit Malaviya's amendment was more or less to the same effect.

Mr. Deputy-Speaker: Apart from this, this is a concurrent subject. If the local conditions and circumstances require a State legislature to make any law, that law has to receive the assent of the President. If it receives the assent of the President, to that extent, the provincial law will override or modify this law. That provision is there in the Constitution. I do not know how far we can make a law here which will override or remove the need for the President's assent in a concurrent subject. A provincial legislation cannot have overriding effect unless the President's consent is there. Indirectly, we are now trying to say that notwithstanding the need for the President's consent under the Constitution, a provincial legislature can pass a law even in a concurrent subject. How can you do away with the right of the President. I think it seems to be unconstitutional.

Shri Sarwate: The provisions of the Constitution are not superseded; they also go along with this. If for a provincial legislation that pre-condition is necessary, that pre-condition is attached. It does not mean that that is taken away.

Mr. Deputy-Speaker: It does away with the wholesome provision that there ought not to be any inconsistency between the laws passed by the Central legislature and by the State legislature. The State legislature could not be clothed with power, except in exceptional circumstances, to make such laws. The President must give his consent. I do not know how we can pass a provision overriding all this. On these grounds it has already been voted upon by the House under clause 2; it also militates against the provisions in the Constitution. Is it necessary that we should take up this amendment? Any other amendment?

Dr. C. D. Pande (Uttar Pradesh): I have an amendment, Sir.

Mr. Deputy-Speaker: Already tabled.

Dr. C. D. Pande: Already tabled, but not listed so far. I have got a copy.

Dr. Ambedkar: I have not got a copy.

Dr. C. D. Pande: At least I have been supplied with one copy.

Mr. Deputy-Speaker: When was notice given?

Dr. C. D. Pande: I gave notice in the Notice office this morning and they have given me this copy. This has got to be moved. In any case, the office has given this copy to me; it may have been given to the hon. Law Minister as well.

Mr. Deputy-Speaker: Amendments will be pouring in everyday in the morning. This is only the first of its kind. We had similar amendments also. I do not propose to waive the notice for such amendments unless the hon. Minister sponsoring the Bill is willing to accept them.

Pandit Thakur Das Bhargava: With your permission, Sir, I beg to move amendment No. 420 in my name.

Mr. Deputy-Speaker: The same amendment in another form.

Pandit Thakur Das Bhargava: There is difference. There is a small error here; it is wrongly typed. It should be "in so far as it is inconsistent".

Mr. Deputy-Speaker: That has been provided for.

Pandit Thakur Das Bhargava: That has not been provided for. The original clause 4 says:

"Save as otherwise expressly provided in this Code, etc....."

These words are not there.

Dr. Ambedkar: The words are there:

"Save as otherwise expressly provided in this Code."

Pandit Thakur Das Bhargava: I say that so far as this Code goes, any custom shall cease to have effect.

Mr. Deputy-Speaker: The matters must have been dealt with in this Bill.

Pandit Thakur Das Bhargava: That is not necessary. We make a provision that custom is saved and by the force of that section, custom is saved.

Mr. Deputy-Speaker: Let us see what the objection is in principle. What this clause wants to do is whatever may be the custom, in so far as it is provided for by this Bill, the provisions of this Code will have to prevail except in so far as a specific reservation is made. What is his objection?

Pandit Thakur Das Bhargava: This is an amendment to the old clause 4. There is no question of inconsistency etc. there.

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Mr. Deputy-Speaker: Only in cases where it is inconsistent, the Law must override. If it is not, it may continue.

Pandit Thakur Das Bhargava: This is an amendment to the original clause 4. It is quite different from the new clause 4. If you adopt the amendment moved by Dr. Ambedkar, then, it may be unnecessary.

Dr. Ambedkar: That is my amendment.

Pandit Thakur Das Bhargava: I am in agreement with your amendment; but I have given a different amendment.

Dr. Ambedkar: What is before the House is my amendment.

Pandit Thakur Das Bhargava: The original clause 4 does not consider the question of inconsistency at all.

Mr. Deputy-Speaker: I am not able to follow the need for this amendment.

Shri Santhanam: He wants to restore the original wording that the custom should be invalid to the extent of inconsistency.

Dr. Ambedkar: We have never used the word 'inconsistent' even in the original clause. The original clause was:

"Save as otherwise expressly provided in this Code, any text, rule, or interpretation of Hindu Law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respects any of the matters dealt with in this Code."

It was an absolute thing with regard to law and custom.

Pandit Thakur Das Bhargava: In clause 4 as it stood in the original Bill, there is no reference to inconsistency. It is absolute. My amendment seeks to amend the clause in two ways: in the first place these words are not there: 'save as expressly provided etc.'. Secondly, the question of inconsistency is absent in the original clause. Then all customs and texts of Hindu Law shall prevail but to the extent of inconsistency only they would not have effect. Otherwise whatever is provided in this Act will have effect. With your permission, Sir, I move amendment No. 420, with this correction. I beg to move:

For clause 4, substitute the following:

"4. Any text, rule or interpretation of Hindu Law and any law, custom or usage in force immediately before the commencement

[Pandit Thakur Das Bhargava]

of this Code shall in so far as it is inconsistent cease to have effect with respect to the matters dealt with in the Code."

Mr. Deputy-Speaker: Amendment moved:

"4. Any text, rule or interpretation of Hindu Law and any law, custom or usage in force immediately before the commencement of this Code shall in so far as it is inconsistent cease to have effect with respect to the matters dealt with in the Code."

Shri Syammandan Sahaya: I beg to move:

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, after the words "this Code", where it occurs for the second time, insert the words "in so far as it is inconsistent with any of the provisions contained in this Code".

Mr. Deputy-Speaker: In part (a)?

Shri Syammandan Sahaya: Yes.

Mr. Deputy-Speaker: The object of the Law Minister seems to be that once a particular matter is dealt with here, you need not go to any other code. But the suggestion of the amendment seems to be that it is only in cases where the provisions are inconsistent with the provisions of the Code that the Code provisions will prevail.

Shri Syammandan Sahaya: That is exactly my point.

Mr. Deputy-Speaker: Amendment moved:

In the amendment proposed by Dr. Ambedkar, in part (a) of the proposed clause 4, after the words "this Code", where it occurs for the second time, insert the words "in so far as it is inconsistent with any of the provisions contained in this Code".

And so the following amendments have been moved:

No. 6 of Dr. Ambedkar, No. 450 of Dr. Deshmukh. No. 129 of Sardar Hukam Singh, Nos. 128, 420 and 449 of Pandit Thakur Das Bhargava, Nos. 380 and 419 of Shri Naziruddin Ahmad, Nos. 130 and 418 of Shri Jhunjhunwala and No. 417 of Shri Syammandan Sahaya.

These amendments and the clause are now thrown open for discussion.

Dr. Deshmukh: This is a very important clause and it has assumed greater importance because the provisions of the present law are going to be limited only to those related to marriage and divorce. It was for that reason that I was going to say so far as clause 3 was concerned, that there was not

any very great need for a definition of the words "custom and usage". Also I thought that so far as marriage and divorce were concerned, there was the prevailing opinion that custom should not be taboo and should not be prevented from operation to the same extent as might have been the case if we were to include inheritance and succession in the provisions of the Code. So I thought that since we were going to limit this now only to marriage and divorce, insisting on defining custom and usage and also making provisions in clause 4 were not of such great importance. Therefore I was suggesting that the definition also should be omitted from clause 3. So far as the wording of the definition is concerned, I am in complete agreement with the learned Doctor, because it is absolutely identical with the rulings on the subject and there is not a single word there which can be objected to. In fact, if anything, it liberalises

[SHRIMATI DURGABAI in the Chair]
and widens the scope for it extends to anything uniformly observed for a long time and it gives recognition even to family customs. From that point of view there is nothing objectionable about the definition. But so far as most of the provisions in the present Bill are concerned, I would like the hon. Minister to view the whole thing as early as possible from this point, namely that the provisions are now going to be limited only to marriage and divorce. Now as he had himself admitted, there are many things here in this Bill many provisions which were intended specifically to govern other provisions in a particular manner. I would like him to view even some of the provisions to which we are going to confine ourselves from this point of view. If he does that I think some modifications would be necessary even in this clause which gives the overriding effect to this law as against custom and usage as well as interpretation of Hindu law prevalent at the moment.

If we pass the clause as suggested by Dr. Ambedkar's amendment we would certainly be going further than what was I believe intended. Sub-clause (a) of clause 4 reads:

"Any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Code shall cease to have effect with respect to any of the matters dealt with in this Code."

If it is correctly interpreted it would mean that all custom and usage so far as marriage and divorce are concerned will be barred, because they are matters dealt with in this Code.

Shri J. R. Kapoor : Unless specifically saved.

Dr. Deshmukh : I fully agree with the amendment notice of which has been given by my friend Mr. Sahaya. Since you put these words here, so long as you legislate on the subject of marriage and divorce, as far as I can understand, it would not be possible to recognise any custom or usage.

Dr. Ambedkar : We are saving some things.

Dr. Deshmukh : Not unless the saving is put down.

Dr. Ambedkar : The clause begins with the words "Save as, otherwise expressly provided".

Dr. Deshmukh : So far as my view of the matter is concerned as regards marriage and divorce custom should have full play. We have the instance of the Punjab, which is being governed more by custom than by specific legal provisions.

Dr. Ambedkar : We want to raise the people of the Punjab to our standard.

Dr. Deshmukh : From that point of view I have tabled an amendment to omit the words "any custom or usage" so that any custom or usage which does not contravene or which answers the requirements of clause 3 should prevail and continue. If this is not done I am afraid any other provisions in the subsequent clauses will not help us. According to my understanding part (a) of clause 4 is adopted as it is, even where it is the wish of the House that custom and usage should be recognised side by side with the provisions of the law it will not be possible to clothe them with that recognition. Therefore it would be best to omit the words "any custom or usage". Some of my friends have gone to the extent of saying that it should override the provisions of the law everywhere, as has been suggested by Pandit Bhargava. That would probably be something which is absolutely contrary to clause 4. It would be tantamount not only to the omission of the clause but would be putting it in the opposite direction.

Shri J. R. Kapoor : It would be a negation of the Code itself.

Dr. Deshmukh : I agree that it would be a negation of the Code. My submission is that there would be ample room for the continuance of any recognised customs and usages so long as we do not bar them by this enactment. I do not think it would be

correct to leave the sub-clause (a) as it is. The original clause was to the effect that any custom or usage or any other law in force immediately before the commencement of the Code shall cease to have effect as respects any of the matters dealt with in this Code. From that we have modified the position slightly. So long as we limit the law only to marriage and divorce I would like that usage and custom should be allowed to prevail, because it has stood the test of time, it is more convenient and less expensive, and it is likely to be less oppressive to the people. I submit there is everything to be said in favour of the amendment I have moved.

Sardar Hukam Singh : I have moved my amendment whose purport is identical with the amendment Dr. Deshmukh has moved. I entirely associate myself with what my learned friend has just now said, but in addition to that I have to submit certain other points. In clause 3 we have just defined custom and usage; how we have exalted it and dignified it is apparent from the words used:

"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:

Provided that the rule is certain and not unreasonable or opposed to public policy".

I beg to submit that when we have laid down a definition and have restricted what actually a usage or custom is for it to be recognised, immediately after that we deal a fatal blow to it in clause 4.

An Hon. Member : There is saving.

Sardar Hukam Singh : There is saving—everywhere, in every clause you say, save something which is deemed proper. But I look at it the other way. It should not mean that for every clause wherever an exception is deemed necessary a saving clause should be added saying that such-and-such a custom should be saved. Why not save it absolutely when it has the status of law? It cannot be imagined that it is so vague, so uncertain or so indefinite that you cannot reach at it or find it out. It is not only on the lips or in the hearts of the people in general, but I lay claim to this fact also that it is already laid down in public documents and it cannot be changed arbitrarily. If somebody

[Sardar Hukam Singh]

were to say that it might lead to litigation, then I can lay the counter-charge that even in codified laws there are always disputes, even in registered documents and registered acts there are disputes. I might read from Mayne:

"The *Rivaj-i-Am* is a public record, prepared by a public officer in the discharge of his duties under Government rules. The statements therein may be accepted even if unsupported by instances. Manuals of customary law in accordance with the *Rivaj-i-Am* have been issued by authority for each district."

So, those customs are not carried orally that there can be dispute about them; they are contained in public documents. At each settlement they are revised and scrutinised to see that everything is correct according to the custom that prevails. There is no danger about it. My fear is that we have been governed so long by a very simple law. We are told that it is now too late in the day that Punjabis should rise up and say that they are not governed by Hindu law. Of course, that is our claim. The Punjab Laws Act, clause 3, does define that we have been governed by customary law in preference to the Hindu law. Everybody knows the customary law and understands it well.

Dr. Ambedkar: This is much simpler than customary law.

Sardar Hukam Singh: We are told in one breath that we have so long been governed by Hindu law—well and good—but in another breath we are told that that was not the proper Hindu law. Hindu law is now rediscovered and a Code is being brought and thrust upon us. The law-giver says that this is the Hindu law. Where is the guarantee that this discovery might not lead to another after a few years and we may not be confronted with the statement that the law then being propounded was the correct one and everybody else who went before it had made a mistake. If it is progressiveness, we claim that our customs are more progressive than the law which is being proposed now. If progress is to be the criterion, then I say: don't touch us. If you wish to move forward, we are already in advance of you. Come after us. Even in regard to marriage and divorce, we are far in advance of you. Do not pull us back. Laws should reflect the stage to which the society has advanced and if the law-giver now thinks

that we have advanced to this stage only now, then he is mistaken. If it is only for the sake of bringing about uniformity, then too I am afraid he would not succeed. The variations in the customs and usages, in the cultures and languages, cannot be blended together in so short a time.

An appeal was made to the Sikhs yesterday that they should forget the old days and try to become part of the nation. That is a thing that we would cherish. We are not opposed to it. But if Dr. Ambedkar cares to listen to me...

Sardar B. S. Man (Punjab): He is talking to somebody. He does not bother to consult us. He does not bother about our opinion.

Sardar Hukam Singh: I find he has turned to me now.

We were reminded yesterday and an appeal was addressed to us yesterday that we should try to become part of the nation; that we should have no tendencies to remain separate. That was very good of him and I thank him wholeheartedly. We are prepared to come forward and meet him more than half way but I would just remind him, as I did yesterday, that he should begin at the Government and at the Cabinet itself. He ought to advise the President that he should not make discriminations when he issues orders, and I particularly referred to the Scheduled Castes Order of 1950.

Dr. Ambedkar: I think my hon. friend may legitimately criticise the Government, but I think he ought not to bring in the President, because whatever the President does he does on the advice of the Ministry and I would be quite prepared to bear all the criticism that he wishes to direct against me.

Mr. Chairman: I think this point has been made clear on a former occasion when the Deputy Speaker told the House that the President's views are not to be canvassed or criticised on the floor of the House.

Sardar Hukam Singh: Perhaps I have not been heard. I said that Dr. Ambedkar should 'advise' the President. I think I am within my rights in saying that. I am not criticising the actions of the President. I am only requesting Dr. Ambedkar to advise the President. He has been advised by Dr. Ambedkar and other Ministers, and I am requesting Dr. Ambedkar to advise him. My appeal to Dr. Ambedkar is that he should begin at home.

Sardar B. S. Man: On a point of order, Madam. Some doubt has arisen in my mind. Since the actions of the President are under the advice of the Government, supposing that an action of the President is such that it gives rise to a complaint in the House, particularly at this moment when the Punjab is being governed directly by the President, is it not open to me to question the advisability or validity of certain orders of the President which to my mind are unjust? In that case it will not be possible for me to question the actions of the President as such.

Dr. Ambedkar: I am quite certain about it. Even if my hon. friend has an occasion to criticise any of the orders that have been issued by the President, it would not be open to him to criticise the President. He can censure the Government if he likes.

Sardar B. S. Man: Even when the orders are issued directly by the President? Of course, the constitutional presumption is there that these orders are issued on the advice of the Cabinet. The situation in the Punjab is that it is governed directly by the President. Of course the responsibility for any orders issued by him would fall on the Cabinet, but when the orders of the President are to be discussed, how can I refer to them except as orders of the President?

Mr. Chairman: The Constitution very definitely says that everything that the President does shall be on the advice of his Council of Ministers and that explains every act of the President.

Sardar B. S. Man: Suppose I want to refer to the orders made by the President in relation to Punjab. I can only refer to them as the orders of the President, though the presumption remains that they are made by the President on the advice of his Cabinet. I would like to have a clear ruling from you on that point.

Mr. Chairman: I think the point has been made clear already by Dr. Ambedkar and whatever explanation he has given applies to this category of orders as well, to which the hon. Member has just now referred.

There are two propositions: one is that the President's actions are not to be criticised, the other is that the President, whatever he does, does it on the advice of his Cabinet. If these two are taken into consideration, the conclusion will be that even though his actions are based on the advice of the Cabinet, yet they are not to be criticised.

Sardar B. S. Man: Even if they are unconstitutional—even if they are bad? I can always say that this advice which has been tendered to the President is bad advice.

Mr. Chairman: We have accepted the provision in the Constitution that the President's actions are not to be criticised.

Sardar B. S. Man: We can even move a no-confidence motion...

Dr. Ambedkar: You can move a no-confidence motion in the Government, not the President.

Shri Damodara Menon (Travancore-Cochin): Has not this House a right to impeach the President?

Dr. Ambedkar: That is a separate matter altogether.

Mr. Chairman: I would, in this connection, refer the House to clause (vi) of Rule 159 of our Rules of Procedure which says:

"A member while speaking shall not—

* * (vi) use the President's name for the purpose of influencing the debate;"

Sardar B. S. Man: In fact, it is the Government that is using the name of the President. When I criticise certain actions of the President, the odium attached to them may be of the Government or the advisers of the President. It is up to the people to pass it on to wherever it belongs. But when the orders issued are of the President, criticism ought to be in the name of the President. Because, at present in the Punjab we are being governed by the President, am I to forego the right of criticism? It may close the door for all future time to come. That is my point.

Mr. Chairman: My own personal feeling is that if hon. Members are not prevented from criticising, as they are doing it in the House, they may direct their criticism to the Government who are giving bad advice—if it is bad advice in their opinion. If the Government is at the bottom of the President's action, if in their opinion it is not the President who is acting but it is the Government which is tendering bad advice, it is absolutely open to the Members to criticise the Government on their actions, without bringing the name of the President.

Dr. Deshmukh: Can we also say that we are not criticising the President and that we are criticising the Government?

Mr. Chairman: Therefore, where is the difficulty? When the Members are free to criticise the actions of the Government and there is absolutely no bar to their expressing their views frankly and openly, they need not feel or suffer from the trouble that they are not able to bring in the name of the President directly.

Sardar B. S. Man: We are not bringing the name of the President but the actions of the President, as they are the actions of the Government. It is for you to presume just as it is for me to criticise.

Mr. Chairman: I think I have made the point quite clear. If it is in their mind that it is the Government that is at the bottom of the President's action and that is not advising properly, if the Government is the subject-matter of the attack, they are absolutely free to attack the Government. Nothing bars them.

Sardar Hukam Singh: I am sorry that my appeal has been lost in this discussion that took place over the question whether we can criticise the President or not. But my purpose is not to criticise the President at all. He is not to blame so far as my point is concerned. I bring the charge directly against Dr. Ambedkar, because he made an appeal to me and other Sikhs that we should not think in such separatist terms. But the blame lies on the other side. He has started this game and kept us at a distance when he was advising the President to make that order about scheduled castes. That is my complaint. Before he makes an appeal to me that I should change my mind, he should begin from his own sphere and remove that injustice. That was my first point.

The second point is when we submit that custom in Punjab is much simpler and much more easily understood by the average citizen, we are confronted with this question whether we want monogamy or not. That is not the question. Monogamy we do want. We support and welcome it. Everybody wants monogamy. Nobody is against it. Already public opinion is so strong that now normally all people are for monogamy. Moreover the economic condition of the country is such that nobody can now bear the burden of more than one wife. There is no denying the fact that it is not possible for an ordinary man now, except those that are placed in a

privileged position like our Doctor himself, to have a second wife. Therefore no question arises about monogamy. Even if it comes we are not against monogamy, we welcome it. But the question is that there are other things that will follow. There are prohibited degrees. There are other ceremonies. So far as Punjab is concerned, our prohibited degrees are much fewer. You are contracting it by this Bill and you will have to contract it further. Though we are not passing the portion relating to inheritance at this moment, it is contemplated to pass it in the near future.

I. P. M. If you want that the girl should have a share along with her brother, then this long list of prohibited degree cannot remain. Obviously we would be compelled to contract it more and more unless you give inheritance to our cousins and sisters and others (*Interruption*) like Muslims certainly. Both the things have to go together and already in the Punjab custom there is a list of prohibited degrees which is recognized and permitted by custom and if you are doing anything against that progress which you claim you are helping to proceed, surely you are bringing us back when we have gone so far forward. (*An Hon. Member:* Leading). Yes. We are leading the whole of India.

[*MR. DEPUTY-SPEAKER in the Chair*]

So far as the other things are concerned, a short while ago the question arose when my esteemed friend, Pandit Thakur Das Bhargava moved his amendment that along with the adopted son, the appointed heir should be added, and this was opposed on the ground of certain objections and interruptions. The appointed heir is as good as an adopted son as in any other part of India. The only advancement or progress that is there is that no particular ceremonies are observed. The age is not restricted and so far as relationship is concerned, that is not restricted also.

Dr. Ambedkar: Did not we decide that we will take the case of the appointed heir at a later stage? I thought that the House agreed to that. When we were discussing clause 3 on the definition of son, Pandit Thakur Das Bhargava raised that question and I submitted to the House that this was a matter which may be considered later on at the appropriate stage either when we come to the conclusion.....

Mr. Deputy-Speaker: When we were in the definition.

Dr. Ambedkar: My hon. friend is referring to the appointed son. We have not come to that yet. I am only saying that we can save the time and get through clause 4.

Mr. Deputy-Speaker: We agreed to put it off till Part VII. We can discuss this at a later stage when this matter comes up.

Sardar Hukam Singh: This interruption of the hon. Minister has created an apprehension in my mind that he is not following or I am not able to make myself clear.

Dr. Ambedkar: I am following and I have caught this point that the whole of Punjab is very progressive as against all others.

Sardar Hukam Singh: That he has caught all right but if I am giving the reasons and instances, he would not care to follow. I am giving an instance where the usage or custom is so necessary and I am saying..

Dr. Ambedkar: This part of my education will be better left out now. I will receive it at a later stage.

Babu Ramnarayan Singh: That you will have to learn.

Sardar Hukam Singh: It is not only the Doctor himself who is to be educated, but there are others also. If I have to request hon. Members to give their vote for me, I have to convince them.

Dr. Ambedkar: Later on.

Mr. Deputy-Speaker: What is now suggested is that this discussion should be blocked. But in another place when the same matter was raised in clause 3 it was suggested with regard to the definition of a son that an appointed heir must also be a son. When we come to clause 7 where the prohibited degrees are narrated, it may be considered whether it should be included, or an explanation added. Let us take up this when we come to clause 7.

Sardar Hukam Singh: I am extremely sorry that I have not been understood. What I wanted to say was this. I am only advocating that usage and custom should continue to override the law. In advocating that, I am explaining the utility of usage and custom, the progress that it has made over law and why it should be retained, and what differences there are between custom and other laws. In that connection I am referring to the son: I am not trying to define 'son' or

other people. That was my object. But, if the Doctor Saheb says that I should not continue, I will stop.

Dr. Ambedkar: I was only saying that we may discuss this later on.

Mr. Deputy-Speaker: We may discuss that later on.

Sardar Hukam Singh: Then, I was submitting, Sir, that so far as custom and usage in the Punjab is concerned, it is recognised and well understood. It has continued to override the Hindu Law as was understood by the common man or even by lawyers and law-givers. There is no reason why, when it has been overriding Hindu Law for such a long time, has stood the test of time, has stood the test of scrutiny of judicial pronouncements and other tests, it should now be abrogated because a new law has been discovered and that is being given by another law-giver. It should continue. It has been definite. It is reasonable. It has stood the test of time and has been uniform. As I have already submitted, it is contained in public documents and can easily be ascertained. There can be no ambiguity about it. Therefore I submit that these words 'usage or custom' should be omitted from this clause.

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava.

Dr. Ambedkar: If I may plead, Sir, I would like this clause to be put to the House before we disperse, if the House permits.

Some Hon. Members: No, no; this is a very contentious clause.

Mr. Deputy-Speaker: I am giving opportunity to the Members who have moved amendments. First Dr. Deshmukh, then Sardar Hukam Singh, and then Pandit Thakur Das Bhargava; there are then Mr. Nazruddin Ahmad and Mr. Jhunjhunwala. I am afraid it will not be possible with the best of intentions.

Some Hon. Members: This is a very controversial clause.

Mr. Deputy-Speaker: I think we must sit tomorrow. We shall be sitting tomorrow also.

Some Hon. Members: Yes, yes.

Some Hon. Members: No, no.

Capt. A. P. Singh: Tomorrow we must have a holiday.

Mr. Deputy-Speaker: There is so much of work in the Order Paper,

[Mr. Deputy-Speaker]

We have not even finished clause 4. There are 55 clauses in all, in this chapter. In these circumstances, I am afraid we will have to sit tomorrow.

Capt. A. P. Singh: We have got to study so much about this Bill and about so many other things. We should have some time.

Mr. Deputy-Speaker: There are no questions tomorrow. I have no objection to sitting from 9-30. We will sit at 9-30 A.M. This will be the only work tomorrow.

Some Hon. Members: Yes.

An Hon. Member: Up to?

Mr. Deputy-Speaker: 1-15 as usual.

An Hon. Member: 9-30 to 2 o'clock.

Pandit Maitra (West Bengal): Up to 12 o'clock, Sir. We have got other work.

Pandit Thakur Das Bhargava: This is the most contentious clause in the whole Bill (*Interruptions*). Sir, I was submitting that clause 4 is the most contentious clause in the whole Bill. As a matter of fact while we were considering clause 2 which took so much time of the House, the contentions were really such as appertained to clause 4. Human nature as we know it, loves its own customs. In societies where the law-making power is not fully evolved the conduct of the people is governed by custom, and custom gets fixed in the affections of the people and its seat is deep in the hearts of people to such an extent that people love it in preference to imposed law. Therefore, the question which is put to us when we go out into the country is, "Are our customs to be safe or not?" A few days ago I was in the house of one of my friends who happens to be a Minister of the Government of India and his orderly asked me, "What are you doing, Sir, with regard to the Hindu Code?" I told him that the Hindu Code Bill was being discussed and some portions of it will be passed. The very next question that he puts me is, "Will it do away with our divorce custom?" That was the question that he asked me. I told him, "Well, it is likely that the divorce provision will be passed and so far as the customs were concerned those customs would be recognised only if they stand a special test, and all customs would not be continued." He was not happy. He wanted that his own custom, whether it be reasonable or not, may be recognised and fully given effect to. Sir, that is really what is in the minds of

the people now. All the same, so far as this House is concerned and so far as the representatives of the people are concerned, we are anxious that custom should come into this law only to a certain extent. We want that such customs as have gone very deep in the affections of the people should be continued. So far as South India is concerned we know that there are certain connections and marriages there which are regarded as very objectionable in North India, but they are considered right and proper, in South India. They should not be interfered with. Similarly Sir, there are some customs or well-established practices in other parts of India and no person would say that they should be interfered with. In this connection I would illustrate my point by reference to a custom that is very widely prevalent among the agricultural classes in the Punjab and which is going to be disturbed by some of the provisions that we are making here. There a certain kind of marriage is performed called the *Kareva* marriage. If a man dies his widow is married to his younger brother or to any person who is of the same status as a brother even though this brother may be of the same age or younger than the woman. In some sections she is married to the elder brother also, but that is not the practice in other sections. Now, in that form of marriage you do not have the usual marriage procedure, the "*Sapta pada*" and all that. They just go through a customary rite and the marriage is considered as having been performed. The final result of this practice is that neither the property nor the woman goes out of the family and also the children from the previous husband are properly looked after. And this custom has been prevailing among these people from very ancient times. The upper-class Hindus are now adopting gradually this custom of widow-marriage. This sort of widow remarriage which is practised by the agriculturists in the Punjab is being adopted by the upper-class Hindus also. So the custom now is that even if the younger brother of the deceased has a wife living he will have to marry the widow of his elder brother and they live as husband and wife. This is practically a case of bigamy according to the Hindu Code.

Mr. Deputy-Speaker: How?

Pandit Thakur Das Bhargava: The younger brother may have his wife living and according to custom the widow of the elder brother is married to the younger brother even though he may have a previous wife by marriage. (*Interruptions*).

Mr. Deputy-Speaker: There are certain customs prevalent in particular parts which according to them are valid and not unusual. Let us not show any kind of derision or disagreement by any visible representation such as laughter lest we should wound their feelings. I only put the question for the purpose of knowing the details

of it so that the House may understand the position.

The hon. Member may continue his speech tomorrow.

The House then adjourned till Half Past Nine of the Clock on Saturday, the 22nd September, 1951.