

Mr. Deputy-Speaker: The question is:

In page 13, for lines 11 to 14 substitute:

"The provisions of the Special Marriage Act, 1954 shall cease to have any effect on the Hindus after the commencement of this Act"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Shri Rano (Bhusaval): I have got one amendment to clause 30. I beg to move:

In page 13, for clause 30, substitute:—

"30. Repeals.—The Hindu Marriage Disabilities Removal Act, 1946 (XXVIII of 1946) and the Hindu Marriages Validity Act, 1949 (XXI of 1949) are hereby repealed."

Mr. Deputy-Speaker: The question is:

In page 13, for clause 30, substitute:—

"30. Repeals.—The Hindu Marriage Disabilities Removal Act, 1946 (XXVIII of 1946) and the Hindu Marriages Validity Act, 1949 (XXI of 1949) are hereby repealed."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 30 stand part of the Bill."

The motion was adopted.

Clause 30 was added to the Bill.

Mr. Deputy-Speaker: It is here pointed as "1954" and the "Fifth year". These words will be corrected by the Speaker. They need not be gone into here.

12 P.M.

Mr. Deputy-Speaker: It need not be put to the vote of the House formally. We shall now take up Clause 1, the Enacting Formula and the Long Title.

Shri V. G. Deshpande: There are two amendments of mine, 169 and 170. I beg to move:

(i) In page 1, in the Long Title, for "marriage" substitute "divorce".

(ii) In page 1, line 5, for "Hindu Marriage Act, 1954" substitute "Hindu Divorce Act, 1955".

Mr. Deputy-Speaker: Is it the intention of the Mover that there should be divorce without marriage?

Shri V. G. Deshpande: That is the real purpose of the Bill.

Mr. Deputy-Speaker: The question is:

In page 1, in the Long Title, for "Marriage" substitute "divorce."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 1, line 5, for "Hindu Marriage Act, 1954" substitute "Hindu Divorce Act, 1955".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 1, the Title and the Enacting Formula stand part of the Bill."

The motion was adopted.

Clause 1, the Title and the Enacting Formula were added to the Bill.

Shri Pataskar: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: Motion moved:

"That the Bill be passed."

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Mr. Deputy-Speaker, during the last few days I have not spoken at the various stages of this Bill. But I have taken a deep interest in these discussions and followed them. As

perhaps, the House knows, I have been deeply interested not only in this Bill, but in certain matters connected therewith, and it is a matter of great gratification to me that we have arrived at this stage now, the third reading stage of this Bill and I have every hope that this House will finalise it in the course of the next few hours.

I approve of this Bill, of course. It is not merely what is incorporated in this Bill but rather something more than that which this Bill represents. It appeals to me greatly, I think it is highly important in the context of our national development. We talk about Five Year Plans, of economic progress, industrialisation, political freedom and all that. They are all highly important. But I have no doubt in my mind that the real progress of the country means progress not only on the political plane, not only on the economic plane, but also on the social plane. They have to be integrated, all these, when the great nation goes forward.

We work peacefully in this country and we have brought about a great political change. That is, from being a dependent country we have become an independent country, by and large, through peaceful methods. We are pursuing that peaceful way to bring about changes. But let it not be forgotten that the changes—political or other—that are being brought about are, well, in a sense revolutionary in their context, although they might be brought about largely cooperatively.

Now, I welcome this particular measure because I think it is of the highest importance that we should take up the social challenge. On a previous occasion, speaking, I think, on not this Bill, but on a similar measure—the Special Marriage Bill—I ventured to say something about my reading. I speak, of course, before experts with some fear of trepidation, but I ventured to say what my conception of Hindu Law had been in the past.

Hindu Law had never been rigid; Hindu law had a certain dynamic ele-

ment in it: indeed that was its strength, because any law that is rigid and is not dynamic is inevitably static and does not change with the changing times. Hindu law has that dynamic changing quality. It is not a law of the Statute Book which is changed when you change it. It encouraged all kinds of customs to grow up. When they grew up it acknowledged them. In fact, even today in India there are so many varieties of Hindu Law,—in the South, in the North, in the East,—that it is very difficult to say that this is the one and the only Hindu Law. You see the variety all over. Then again, everyone knows that a great majority of Hindus, apart from the few topmost castes, are governed by all kinds of customs. Would anyone here venture to say that they are not Hindus and drive them out of the Hindu fold? Surely not. Therefore, the essential quality of the Hindu Law in the old times was this dynamic quality, not changing by the decree or statute, but allowing changes to creep in, so that they might be in the fitness of the changing conditions of society.

Now I venture to ask: can any law, whether it is social or economic, be equally applicable when society has changed completely? Let us take India, broadly speaking, a thousand or two thousand years ago. The population of India in those days was one hundredth of what the population today is and India was a community of a large number of villages and some small towns. Now surely modern conditions are entirely different. In the cities of Delhi, Calcutta, Bombay and Madras industries are growing and new social relations are growing up. Can any one say that while all these changes are taking place—tremendous changes—in our social set-up, certain things must remain unchanged? The result is that they will not fit in; the result is very bad one—that while you appear to hold on to something, that something which has gone, or is in the process of going, cracks up, because it does not fit in with the changed conditions

[Shri Jawaharlal Nehru]

This Bill has taken a few days in discussion here, but behind it lies years and years of investigation,—I forget how long. First, there was Sir B. N. Rau's Committee which functioned for a number of years. Here in this Parliament this matter has come up for the last three and a half years. Before this Parliament came up, in fact, Bills were repeatedly moved. Proceeding this was the tremendous investigation by the B. N. Rau Committee. No subject, I take it, has been so much before the public, has been discussed so much and opportunities given for its consideration by the public as this particular subject in its various aspects,—the question of the reform of the Hindu law in regard to personal relationships. Now that was right because it was important. After all, politics are important, economics are important, very important, but in the final analysis human relations are the most important.

This morning a fact came to my notice, that in the small State of Saurashtra, one of our smallest States, one, if I may say so, of our advanced States in many ways, socially speaking, there is on an average one suicide a day among the women because of mal-adjustments in human relationships. The figure was 375 in a year: 375 in a population of 40 lakhs, men, women and children. You can calculate the proportion it works out in that State. These are regular authentic figures which the Chief Minister of that State gave me. This shows the mal-adjustment and the difficulties that more especially the women have to face. I have no doubt that such similar statistics may be collected from other parts of India. One has to face that situation.

I had the privilege of listening to the speech of the hon. Member opposite, Shri N. C. Chatterjee. The more I listened to it, the more confused I got and surprised. He dealt at great length with what is a sacrament and what is a *samskara* and other things. He is quite welcome: let it be a sac-

rament. It concerns us and let us get at what is a sacrament exactly. What does it mean? A sacrament, I take it, is something which has religious significance, a religious ceremony. A Hindu marriage is a religious ceremony, undoubtedly. Nobody doubts that. It has a religious significance. But, does it mean that it is a sacrament to tie up people who bite, who hate each other, who make life hell for each other? Is that a sacrament or a *samskara*—I do not understand. Obviously, that is not the question, I admit. I would go a step further. I think all human relationships should have an element of sacrament in them. More so, the intimate relationship of husband and wife, apart from other relationships, should have an element of sacrament in it. There is something rather fine in human relationships provided they are good relationships. Otherwise, that relationship is the reverse of fine. It is awful. If they cannot fit into each other, if they are compelled to carry on together, they begin to hate each other and their life is bitter. The whole foundations of their existence are bitter. Surely that is not a sacrament.

He quoted, he referred to Manu and Yagnyavalkya, very great men in our history, who have shaped India's destiny. We admire them. They are among the heroes of our history. But, is it right for Shri N. C. Chatterjee or any one to throw Manu and Yagnyavalkya at me and say what they would have done in the present conditions of India?

Shri N. C. Chatterjee: I am sorry, the Prime Minister was not here; Shri Pataskar threw them on me and I only reciprocated rightly.

Shri Jawaharlal Nehru: The point is, it is very unfair for Manu or Yagnyavalkya or anybody else to be brought in as a witness as to what should be done in the present conditions of India. The conditions are completely and absolutely different. I admit that there should be, and there are, undoubtedly, certain principles of

human life which, normally speaking, do not change and should not change. There are certain bases of human life. But, in adapting them in legislation and other things, you have to consider the conditions as they are and not as they were 1000 or 2000 years ago.

Then, again,—I speak subject to correction by Shri N. C. Chatterjee,—he referred to some learned professor of a Hindu University who has produced a pamphlet. I happened to see the pamphlet. It does not bear his name; I do not know his name. Because he has drawn my attention to it, I looked into that pamphlet. I was surprised that any person, learned or unlearned, should have produced that. What is that pamphlet? That pamphlet is based chiefly on a certain report in America known as the Kinsey Report. It is based on showing how the conditions in the United States of America are. First of all, for a professor, learned or unlearned, to go about issuing pamphlets, condemning other people and customs of other countries, is not a good thing. It is not good for him to do or for any one of us. If it is a scientific study, well and good. The scientists can do it. To make that a parallel and say, "See how horrible the conditions in America are, if you pass this Bill, you will have the same conditions," is not only *non sequitor* in logic, but it is a bad way of approach. Very few of us who are present here, I would venture to say, none of us, is competent to give any real opinion, worthwhile opinion, about the conditions in America or England or Russia or anywhere. We read about them in the newspapers; may be we read books about them. We do not know the context, we do not know the historical development, we do not know the facts and a hundred other factors. The major thing that is affecting human relationships in the world today is the growth of industrialisation. It has nothing to do with the law of marriage or divorce and the rest of it. It is the growth of industrialisation, the industrial economy of the countries, vast numbers of people living in huge industrial centres, re-

sulting in all kinds of neurosis and other things. That can be studied in a scientific manner or otherwise. To apply that parallel to India and say that if this Bill is passed, all kinds of looseness, laxity and licentiousness will prevail, is narrow and unworthy of a professor, learned or unlearned.

Apart from this, I should like in this context, with all respect, to say something about a habit that some of us have, everybody has,—to condemn other people, other countries their customs, their religion whatever it may be, their economic principles or anything and take pride in the fact that we are superior. That is a very bad way. I would not call that in the wider context a civilised approach. It is a narrow approach and an uncivilised approach to these matters. The right approach is, watch them, learn from them, be warned by what you see there, certainly, avoid the things that you think are wrong, accept the things that you think are right, do not shout about things in other countries, especially with regard to the people, instead of condemning them, rather think of our own failings so that we may improve them. That is the right approach to strengthen ourselves.

In this context, with your permission, I should like to quote an ancient passage which, I hope, represents the real spirit of Indian culture, the real spirit of that old *sanskriti*, that is talked about by people who, sometimes, do not themselves exhibit it. I am going to quote from the famous rock Edict of Asoka, 2300 years ago, Rock Edict No. XII.

"The beloved of the Gods does not value either gifts or reverential offerings so much as that of an increase of the spiritual strength of the followers of all religions.

This increase of spiritual strength is of many forms.

But the one root is the guarding of one's speech so as to avoid the exalting of one's own religion to the decrying of the religion of another, or

[Shri Jawaharlal Nehru]

speaking lightly of it without occasion or relevance.

As proper occasions arise, persons of other religions should also be honoured suitably. Acting in this manner, one certainly exalts one's own religionist and also helps persons of other religions. Acting in a contrary manner, one injures one's own religion and also does disservice to the religions of others.

* One who reverences one's own religion and disparages that of another from devotion to one's own religion and to glorify it over all other religions does injure one's own religion more certainly.

It is verily concord of all religions that is meritorious as persons of other ways of thinking may thereby hear the Dharma and serve its cause."

Now, the word "religion" is used. I take it the word in the original was "dharma", which has, of course, a wider significance, and it applies not only to the question of decrying or praising religions, but ways of life, ways of people and others in the wider context, and I wish that this inscription of Asoka which has been carved out in some of the rocks should be multiplied and be made available, visible, to vast numbers of our people, because I do believe that represents the essence of the soul of the old Indian approach which has made India strong, which has given strength to Indian culture in the past, and to the extent it survives today, it gives us strength today. Now, we see something entirely opposed to this—this kind of running down others, condemning others, extolling oneself that we are good, our country is good, or as groups of individuals we are good. Well, goodness shows itself, it does not require extolling by the persons concerned with that particular matter.

And so, in this matter I would submit—in this and connected matters—that we should always avoid running down other countries. Of course, in

the course of discussion when questions come up, we have to deal with their policies and that is all right, but never run down a people or their customs or their ways. We do not know how they have grown, how they have been conditioned by past ages. How to compare the people, let us say, of Central Africa, to the people of Europe or Asia? We have had a different conditioning. How can we compare them? We may like something that they do, dislike something that they do, and there the matter ends. And we should accept this great variety that exists in the world. Even in this little world of India there is tremendous variety. The more I wander about, the more I am surprised and amazed and pleased by seeing this great variety of India. India cannot go ahead, cannot progress, unless it accepts this variety in all its richness and at the same time builds up unity. If we try to impose our own conception of things, our own ways of life, our own way of eating, dressing, standing, sitting, whatever it may be, on ~~somebody~~ else who has a different way, well, then not only do we crack up the structure of a united India, but we are imposing ourselves on others. Let us impose ourselves by argument, of course, by goodwill. Let them accept. But never impose forcibly, because the moment we do that, it is a bad approach, especially when it affects their present life etc.

Therefore, I am glad that in this Bill, custom etc., has been excluded. It will be wrong to go and interfere with custom. Again, if I may refer to this again, the fact is that 80 per cent. or whatever the percentage of the Hindus, actually at the present moment enjoy divorce in some form or other—if that is so—do you want the elect to remain the elect, cut off from the rest looking down upon them, a few higher castes considering themselves the real descendants of Manu and Yagnyavalkya and that others are outside the pale? That is not the way of democracy, nor is it the way of building up a unified society in India. Even look-

ing at it from the narrowest viewpoint of Hinduism, is it good for Hinduism to look at this point in this way?

Now, we are often told, reminded, of the high ideals of Indian womanhood, Sita and Savitri. Well, everyone here, I take it, admires those ideals and thinks of Sita and Savitri and other heroines of India with reverence and respect and affection. Sita and Savitri are mentioned as ideals of womanhood for the women. I do not seem to remember men being reminded of Ramachandra and Saiyavan, to behave like them. It is only the women who have to behave like Sita and Savitri, the men may behave as they like. No example is put forward before them. I do not know if Indian men are supposed to be perfect, incapable of any further effort or further improvement, but it is bad that this can be so. It cannot remain so, you cannot have it so under modern conditions—either modern democratic conditions or any conditions of modern life. You simply cannot have it. You cannot have a democracy, of course, if you cut off a large chunk of humanity, fifty per cent. or thereabouts of the people, and put them in a separate class apart in regard to social privileges and the like. They are bound to rebel, and rightly rebel against that.

Some people, I believe, some hon. Members spoke with disdain of what they consider certain traces, certain developments in what might be called the social life of upper class Hindus, upper class Indian women. Well, I am not a great admirer of certain types of development which we see in Delhi City, in New Delhi, and the like, but what does that lead to? Because we do not like certain developments, let us try to improve them, let us try to change them. That is a different matter. But what exactly does that argument lead to? Does it lead to this that you should create or perpetuate or petrify conditions which themselves are leading to these cracks and break-ups in Hindu society because we find nothing to fit in there?

Then again, it is said: "It is all very well. We are in favour of it, but it is not good enough unless you create economic conditions for the women." That is an argument which may be considered valid logically, but, when applied to these things, it simply means: "Do not do this and you start the other. You have not done the first, you are doing the second." So, the real, basic approach is that nothing need be done. It is quite absurd. You have to make some beginning somewhere. Of course, I entirely agree that the basic thing is economic condition, equality of economic opportunity. To some extent, I hope another Bill which is following will do it. Let us go forward still in that line, but to stop a good Act because it does not completely meet the demands of the situation is never to do anything at all.

The House will remember how it tried at first—that was not in this Parliament, but in the previous Parliament—how the then Government brought forward what they called the Hindu Code Bill, a huge document of hundreds of hundreds of pages. We considered it in various ways, introduced it in the House, referred it to committees. It was so big that we could never get through it. In fact, we never started properly with it, and it was patent that if we went through it, it might take a few years—all committee sittings and all that clause by clause consideration could not be done. Therefore, it was decided to split it up into several compartments and deal with each separately. This is the first part of it. The second I hope will be dealt with and sent to the Select Committee later. This is the only way to deal with human life. You cannot take every aspect, the condition of Indian women, all together, and improve it some way. Apart from the complication, the difficulty involved is that, simply the time element comes in, and you rub up so many other groups and things and they object and say it is not practicable at all. Therefore, you have to take one by one. We take this here now, and I hope we shall take something else next.

[Shri Jawaharlal Nehru]

I referred to Indian women and I said that I am no admirer of certain tendencies which are visible. They are not visible in Indian women only, they are visible elsewhere too, but I would beg of you again not to fall into the trap of appearing to criticise other countries or other women or other people in other countries about whom we know very little. We may have gone, some of us may have gone abroad, spent two or three weeks or months adroad, and formed some opinions. Is that the way you would like a foreigner to come to India and form an opinion of Indian society? You would not. When he comes here for two months and writes a book, you object highly because he has picked out some things which he dislikes and runs you down. He does not know the background of it. As I have often said, the man goes to Banaras, from Western Europe or America and all that. Now, if I go to Banaras, there are many things that I do not like in Banaras. The streets are not clean and this and that—there are many things. But Banaras evokes in me a thousand pictures of India's history, of Buddha preaching in Sarnath, and a hundred other things happening, the whole seat of India's culture and development and this and that. I am filled with India's past history when I go to Banaras. When some tourist comes from abroad he sees the filth and dirt of Banaras lanes. They are both true, if he says that the Banaras lanes are not clean, the streets of Banaras are filthy, unclean and the like. But it is something deeper than that. But we who go abroad then fall into the same trap. We see some filth—social and otherwise—and think that that is the basis of society there. Do you think that the civilisation of the west or your civilisation or the civilisation of any country has been built on these weak foundations, immoral foundations, low foundations? Do you think that any civilisation, any culture, can be built up on that loose basis? Obviously not. They may have been colonial powers—they have been colo-

nial powers. They may have dominated over us—they have done so. They have done injury to us. But the fact is that they have built a great civilisation in the last 200 or 300 or 400 years, and you must find out the good and take the good from them. After all, we have got to build ourselves on our own soil, basically on our own ideas, but keeping the windows of our mind open to the ideas, to the winds, that come from other countries, accepting them, because the moment we close ourselves up, that moment we become static. Whether we close ourselves up by law, by dogma, by religious dogma or any other kind of closure, it is preventing the growth of the spirit of man, and it is bad, for the individual, for the group and for the country. And it has been the greatness, I think, of the basic Hindu approach of life that it was not rigid. Whether in philosophy or anything else, as everybody knows, we have a way of civilisation or a way of orthodoxy completely opposed to each other. We accept them; it is a good thing. There is a spirit of tolerance; a man may be an atheist and still not cease to be a Hindu. May be it is not religion in the ordinary sense of the word. But in regard to certain social practices, rigidity comes in. Rigidity comes in when you say you must not eat with so and so, you must not touch so and so. That rigidity is a thing which has weakened and brought many disasters on Hindu society. Now, we have to break that rigidity. I am glad we have broken, and we are continuing to break, the rigidity in regard to untouchability. I hope we shall break the rigidity due to these caste divisions. Now, in that context, it becomes important that you should break this rigid statute law or interpretation of law by judges which has brought about rigidity in regard to human relations in Hindu society. It is because of that that I welcome this, because it breaks that rigidity. As anybody who has read this Bill can see, the conditions provided for divorce etc. are not easy. They are pretty difficult. For any one to say that this is something which will let loose

licentiousness all over India is fantastic. There is no basis in fact for that.

So far as I am concerned, I do not propose to say anything about women in other countries. They are good or bad, as the case may be. About the social fabric of other countries, I am not competent to judge. Though I may be a little more competent perhaps, because of the opportunities I have had of travel abroad, than many Members here, yet I am not competent to judge. But I can say with considerable confidence, expressing my own faith, that the womanhood of India is something of which I am proud. I am proud of their beauty, grace, charm, shyness, modesty, intelligence and their spirit of sacrifice and I think if anybody can truly represent the spirit of India, it can be truly represented by the women of India and not by the men. So it is, and I may tell you that even now in the modern age, some women of India—not many—go out of India, may be on some official or unofficial work, in commissions and the like. Every time that a woman has been sent, she has done well, not only done well, but produced a fine impression of the womanhood of India.

Shri H. V. Kamath: Question, question.

Shri Jawaharlal Nehru: I am glad the hon. Member has questioned it in this House. By questioning this he has tried to show, shall I say, how life is odd and curious and something ludicrous.

Shri H. V. Kamath: We can't hear you. Please speak up.

Shri Jawaharlal Nehru: I find every aspect of life even in this House.....

Mr. Deputy-Speaker: The hon. Member is a bachelor.

Shri Jawaharlal Nehru: Perhaps that has caused certain misfits.

Shri H. V. Kamath: How about widowers, Sir?

Shri Jawaharlal Nehru: Well, when I speak about women, I am not saying that every woman in India is ideal. That should be an absurd thing to say.

Shri H. V. Kamath: That's all right.

Shri Jawaharlal Nehru: I am grateful for his acquiescence.

But I do say that not every man who has represented us abroad has always brought too much credit on us, but every woman who has gone has whether it is in commissions, committees etc. It is true that fewer women have gone abroad; so it is difficult to take out averages. But still I have the greatest admiration—I am not talking about the ancient ideal of Indian womanhood, which I certainly admire in the old context—for the women of India today. I have faith in them; I think they have solid foundations of character and the rest, and I am not afraid to allow them to grow, to allow them freedom to grow, because I am convinced that no amount of legal constraint can prevent society from going in a certain direction today. And if you put too much legal constraint, the result is that it does not bend; it breaks, the structure breaks. I mentioned a simple case, of Saurashtra. There are many cases given in B.N. Rau's Report, and I think if you go into this matter, you will find that the position of Indian women, more especially of the upper classes is parlous today; it is bad legally, economically and socially speaking. Therefore, I welcome this Bill, because it is a first good attempt to improve that condition and to shake off that rigid structure.

Shri H. N. Mukerjee (Calcutta North-East): We are going very soon to put on the statute book something which has been long overdue. In spite of the hue and cry which was raised over this Bill by my friend Shri N. C. Chatterjee, and others, this is by no means a revolutionary measure. It only seeks to remove some of the multitudinous disabilities of Hindu women and that too in a restricted sphere, namely, marriage, and within the orbit of the present economic subservience