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**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

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THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1923.



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LEGISLATIVE ASSEMBLY.

Tuesday, 27th March, 1923.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

QUESTIONS AND ANSWERS.

RESTORATION OF GRANTS.

641. ***Mr. K. O. Neogy:** Will Government be pleased to refer to my starred questions No. 40, dated the 6th September, 1922, and No. 76 of the 16th January, 1923, and to state the result of their examination of the extent of the authority of the Governor General in Council to instruct a Governor in regard to the exercise of his statutory powers for the restoration of grants rejected by the Local Legislative Council?

The Honourable Sir Malcolm Hailey: The examination of the question referred to by my predecessor is still proceeding.

Mr. K. O. Neogy: When did the process of examination begin and when is it likely to end?

The Honourable Sir Malcolm Hailey: It began, Sir, about the time that my predecessor made the statement; it will end, Sir, as soon as we have full time to give to a question so important. As the House will realise it is really quite impossible for us to take up questions of first class importance like this during the sittings of the Assembly.

Mr. K. O. Neogy: Do I take it that the Government of India did not go into this question before they actually issued instructions to the Governor of Bengal to restore certain grants which were refused by the local Council?

The Honourable Sir Malcolm Hailey: I can only say now that the question is one which needs further consideration.

CAPITAL EXPENDITURE ON RAILWAYS.

642. ***Mr. K. O. Neogy:** (a) With reference to the provision for capital expenditure for the Railways in 1923-24, will Government be pleased to state whether the Central Railway Advisory Council was consulted in regard to the different items of the expenditure proposals?

(b) What control, if any, is exercised by the Finance Department over proposals for capital expenditure on Railways?

Mr. C. D. M. Hindley: (a) The reply is in the negative.

(b) The Finance Department fix the total allotment to be made for capital expenditure on railways in each year, subject to the sanction of the Secretary of State and the vote of the Legislative Assembly, but do not

interfere in the distribution of the grant among the railways or as to the precise objects of expenditure on which the grant is spent. Their business, however, is to see that the total allotment is not exceeded without a supplementary vote, and also to scrutinise such projects as require the sanction of the Secretary of State, before that sanction is applied for.

GRANT FOR RAILWAY QUARTERS.

643. ***Mr. K. C. Neogy:** (a) With reference to the provision of Rs. 1 crore, 75 lakhs and odd made in the Railway Budget for 1923-24, for additional quarters for staff, will Government be pleased to state how much of the amount is likely to be spent for construction of quarters for European and Anglo-Indian employees, and how much for Indian employees, in the different railways?

(b) How much of the said amount is to be devoted towards construction of quarters for employees drawing a monthly salary of Rs. 50 and below?

(c) What will be the total approximate annual recovery in the shape of rent from the staff occupying these quarters; and what is estimated to be the rate of net annual return on the capital spent in the construction of these quarters after making allowance for depreciation and repairs?

Mr. C. D. M. Hindley (a), (b) and (c). The information asked for is not available.

Mr. K. C. Neogy: Do I take it that these details are never examined before provisions are made in the budget for such expenditure?

Mr. C. D. M. Hindley: The Honourable Member is not correct in making that assumption, Sir; they are examined, but they are not examined on the basis which this question indicates.

Mr. K. C. Neogy: With reference to sub-clause (c), is it a fact that no return is actually expected on the capital invested in the building of these quarters?

Mr. C. D. M. Hindley: No, Sir; it is not a fact.

DISMISSAL OF RAILWAY EMPLOYEES.

644. ***Mr. K. C. Neogy:** (a) Will Government be pleased to make a statement showing, Railway by Railway, the number of European and Anglo-Indian employees whose services have been dispensed with as a result of the "economy campaign" during the current year, referred to in paragraph 17 of the Explanatory Memorandum on the Railway Budget for 1923-24? What is the total annual saving effected thereby in each railway?

(b) Will Government be pleased to make a similar statement in respect of Indian employees whose services have been so dispensed with?

Mr. C. D. M. Hindley: The information in the detail asked for is not available. It can be collected only by special compilations by the different railways and the Government are reluctant to put Railway Administrations to this trouble.

ISSUE OF RAILWAY PASSES.

645. ***Mr. K. C. Neogy:** (a) With reference to the answer to starred question No. 446 (a) of the 5th March, 1923, to the effect that officers of the Railway Board are granted free passes over all railways in India subject to a limit of two passes per annum, will Government be pleased to state if it is a fact that the total number of passes issued to Railway Board's staff and staff of Accountant General, Railways, during the year 1922, was 277 for the First Class and 626 for the Second Class?

(b) What is the total number of officers of the Railway Board and the Accountant General, Railways, who are entitled to travel first and second class, respectively?

(c) Will Government be pleased to state why no money account is maintained of the passes and P. T. Os. issued to the said staff?

Mr. C. D. M. Hindley: (a) The rule in this connection is that one set of passes over State and Company-managed railways taken separately or combined and one set over State-managed railways only are allowed under an arrangement with the various railway administrations similar to that which exists between the administrations themselves by mutual agreement. A set of passes means passes to cover the return journey of the employee and his family and the family is allowed to travel separately. It is regretted that the expression used in the reply referred to was open to misinterpretation but it is the expression generally used in this connection. The numbers are as stated by the Honourable Member but I should explain that the rule referred to above does not apply to Gazetted Officers.

(b) 27 and 112.

(c) Government do not consider that any object would be served in expending the time and labour involved in compiling such an account.

VOTABLE ITEMS IN RAILWAY BUDGET.

646. ***M. K. Reddi Garu:** Will the Government be pleased to state whether it is the practice to place all new votable items of the Railway budget—capital as well as the revenue—before the Standing Finance Committee? If not, why not?

The Honourable Sir Basil Blackett: I would invite the attention of the Honourable Member to the statement made by the Honourable Sir Malcolm Hailey in this House on the 15th March, 1922, when a similar question was raised in the course of the discussion on the Demand for railways. As Sir Malcolm Hailey then pointed out, it is not possible to place all proposals for railway expenditure before the Standing Finance Committee. For instance, a large proportion of the expenditure on railways falls under the head of working expenses, and expenditure of that kind cannot be controlled by budget or the ordinary provisions relating to expenditure control. An undertaking was given, however, that all questions of expenditure relating to establishment would be laid before the Standing Finance Committee, and effect has been given during the year to that undertaking except in cases of lesser importance which can be disposed of by the Railway Department, under the ordinary powers delegated to them, without reference to the Finance Department.

RAILWAY EXPENDITURE ON EDUCATION.

647. ***Mr. K. G. Bagde**: Will the Government be pleased to state :

- (i) Whether it is a fact that the E. I., A. B., G. I. P., B., B. and C. I., M. & S. M., S. I., B. & N. W., R. & K., N. W., O. & R. and E. B. Railways spent in 1921-22 the sum of Rs. 6,21,331 or thereabouts for helping education of the children of their European and Anglo-Indian employees and the sum of Rs. 96,446 or thereabouts for helping the children of their Indian employees?
- (ii) The total number of the Europeans and Anglo-Indians and also the Indians employed by the said railways?

Mr. C. D. M. Hindley: (i) The reply is in the affirmative.

(ii) The information will be found in Appendix 23, Volume II, of the Indian Railway Administration Report for 1921-22.

RAILWAY HILL SCHOOLS.

648. ***Mr. K. G. Bagde**: Will the Government be pleased to state :

- (i) Whether it is a fact that schools are maintained in the hills by some of these railways for the special benefit of the children of their European and Anglo-Indian employees?
- (ii) And if so, what is the total capital expenditure incurred for such institutions up to now; and further what are the annual recurring charges borne by the railways in this behalf; and
- (iii) Under what head in the Railway Accounts are the above different items of expenditure shown?

Mr. C. D. M. Hindley: (i) There is one such Boarding School maintained in the hills, namely, the East Indian Railway Oak Grove School, Mussoorie.

(ii) At the end of 1921 the construction account of the School stood at Rs. 8,07,000. The total recurring expenditure for that year was Rs. 2,85,250 met as follows :

	Rs.
By fees	1,36,888
By interest on the endowment fund	7,000
By grant in aid from the United Provinces Government	28,000
By contributions from the various railways whose employees' children attend the school	1,13,862

(iii) The money charged to the construction account has been contributed from time to time from the East Indian Railway Fine Fund, the East Indian Railway and North-Western Railway, Capital and Revenue, and from other miscellaneous sources. The property is vested in the Secretary of State. The portion of recurring charges met by Railway is brought to account as part of the working expenses of the railway concerned in the Revenue Account, Abstract "G" Special and Miscellaneous Expenditure.

EXPENDITURE ON COUPE COMPOSITES.

649. ***Rai Bahadur G. C. Nag**: Are there any proposals for increasing any expenditure on Coupe composites on any other railways during the

year 1923-24? Why is the A. B. Railway going to provide coupe composites on its lines? Did this suggestion for providing such a class of carriages come from the tea planters of Assam?

Mr. C. D. M. Hindley: Government have no exact information as to the extent to which the various railway administrations are providing coupe accommodation in the ensuing year but presume that the particular case referred to is an indication that the Assam-Bengal Railway is acting on a suggestion made by the Railway Board that some compartments should be provided which can be reserved for passengers who desire to travel with their families particularly in the lower classes of accommodation. The suggestion did not come from the tea planters in Assam.

Sir Deva Prasad Sarvadhikary: May I ask a supplementary question, Sir? Has there not been a suggestion made to the Railway Board that these coupes, particularly in the lower classes, should be extended as far as possible, for the benefit of those who use these classes when travelling with their families?

Mr. C. D. M. Hindley: Yes, Sir. That suggestion was made to the Railway Board, they have acted upon it and have made a strong suggestion to that effect to the Railways. This action of the Assam-Bengal Railway is in consonance with the course which was then suggested.

EXPENDITURE ON B.-N. RAILWAY STOCK.

650. ***Rai Bahadur G. O. Nag:** (a) Is it a fact that on the B. N. Railway the proportion of third class passengers to total passengers per train during 1920-21 was 94 per cent. and that of first class was 1 and of second class 3?

(b) Is it true that while this railway proposes an expenditure of Rs. 2,93,000 on pure third class carriages, while a sum of Rs. 87,000 is provided by it for expenditure on touring saloons? For whose benefit are the touring saloons being provided?

Mr. C. D. M. Hindley: (a) The percentages given by the Honourable Member may be accepted as approximately correct.

(b) The provision for coaches for third class only is Rs. 11.73 lakhs and that for touring saloons is Rs. 0.87 lakhs. These touring saloons or tourist cars are required for public traffic.

ELECTRIFICATION AT LUMDING.

651. ***Rai Bahadur G. O. Nag:** Is it true that there is a proposal for electrification at Lumding (A. B. Railway) at a cost of about Rs. 2½ lakhs?

Mr. C. D. M. Hindley: The reply is in the affirmative.

ELECTRIFICATION OF COACHING STOCK OF A.-B. RAILWAY.

652. ***Rai Bahadur G. O. Nag:** Is there a proposal also for electrification of coaching stock of the A. B. Railway at a cost of 2 lakhs?

Mr. C. D. M. Hindley: There is a provision of Rs. 2 lakhs for equipping some of the coaching stock on the Assam-Bengal Railway with electric light in place of gas. This is desirable in the interest of public safety and is in accordance with the general policy on all railways.

DEPRECIATION OF FLOUR MILLS.

653. ***Bhai Man Singh:** 1. Will the Government be pleased to state on an average of how many hours a day is the rate of depreciation of flour mills, etc., fixed at $6\frac{1}{2}$ per cent. on prime cost for the purposes of Income-Tax Act under rule No. 8 of the Indian Income-Tax Rules printed on pages 41—44 of the Income-Tax Manual, 1922?

2. Will the Government be pleased to state whether the mills working much more, say double than the average hours, are entitled to double depreciation under the said rule?

3. If not, is the Government prepared to reconsider the matter and make the rule more equitable by fixing depreciation rates according to the working hours?

4. Will the Government be pleased to state the considerations that led to fixing this average?

The Honourable Sir Basil Blackett: I refer the Honourable Member to the reply I gave to question No. 451 at a meeting of the Legislative Assembly on the 5th March, 1923. The Government are not prepared to alter the depreciation rates until statistics are forthcoming showing that the rates at present fixed are unsuitable.

SIKH HOLIDAYS.

654. ***Bhai Man Singh:** 1. Will the Government be pleased to state how many Sikh holidays are allowed in the Post and Telegraph offices in India or in the Punjab, Sind and United Provinces of Agra and Oudh?

2. Is the Government aware that Guru Nanak's birthday and Guru Gobind Singh's birthday are the festivals universally observed by the Sikhs and they are all declared as general holidays by the Punjab Government and the High Court, Lahore?

3. Is the Government considering the question of declaring these Sikh festivals as general holidays in the Post and Telegraph offices and under the Negotiable Instruments Act?

Colonel Sir Sydney Crookshank: (1) A reference is invited to clause 2 of the Post and Telegraph Guide which contains a list of all the holidays observed in the Department.

(2) Yes.

(3) No.

FIRMS OF ACCOUNTANTS FOR INCOME-TAX ACCOUNTS.

655. ***Bhai Man Singh:** 1. Is the Government aware that the Income Tax Commissioner, Punjab, has approved the following three firms of Accountants for the preparation of Profit and Loss statement for Income-tax purposes:

(a) Messrs. Nisson Dignesse & Co.

(b) Messrs. Basant Lall & Son.

(c) Messrs. Aiyar & Co.

2. Is the Government aware that the majority of Indian firms in the Punjab keep their accounts in Hindi or Gurmukhi?

3. Is it a fact that none of the members of the above approved Accountants' firms know Gurmukhi or Hindi nor do they undertake to audit accounts in Hindi or Gurmukhi?

4. Is the Government aware that the inability of all the approved Accountants in Punjab to audit Hindi or Gurmukhi accounts has led to great inconvenience to those firms who keep their accounts in Hindi or Gurmukhi?

5. Will the Government be pleased to state the considerations on which approval is extended to the practising firms of certified and chartered accountants?

6. Will the Government be pleased to state the consideration which led to the exclusion of Messrs. Sodhbans & Co. of Lahore, the only Sikh and the only Gurmukhi and Hindi knowing firm of certified accountants in the Punjab from the list of approved accountants?

The Honourable Sir Basil Blackett: I would refer the Honourable Member to the reply given to question No. 452 at a meeting of the Assembly on the 5th March, 1923.

EXPENDITURE ON E. I. RAILWAY STOCK.

656. ***Rai Bahadur G. C. Nag:** (a) Is it true that on the E. I. Railway a sum of over 4 lakhs has been sanctioned for "betterments" of upper class stock for 1923-24, and a sum of over 3 lakhs is provided for betterments of motor vans, whereas no expenditure is proposed under the head of "Betterments" or "Renewals"—"Sanctioned" of third class carriages?

(b) Is it a fact that out of an average of 248 passengers per train, 223 or 90 per cent. are third class passengers? Will the Government kindly ascertain from the railway concerned why no expenditure is proposed for "betterments" of third class carriages?

Mr. C. D. M. Hindley: (a) The additional upper class stock and motor vans mentioned were sanctioned as betterments during 1922-23 and have been carried forward into 1923-24.

(b) The reply to the first part of this question is in the affirmative. It is not a fact that no provision has been made for "betterments" of third class carriages for which Rs. 19 lakhs have been allotted against 1923-24.

EXPENDITURE ON S. I. RAILWAY STOCK.

657. ***Rai Bahadur G. C. Nag:** Is it a fact that S. I. Railway has got Rs. 6,67,000 sanctioned for bogie coaches of sorts under "Betterments"? How much of this is to be spent on the upper classes (1st, 2nd and tourist) coaches, and how much on third class?

Mr. C. D. M. Hindley: The answer to the first part is in the affirmative. The information asked for in the second part is not available but will be obtained and supplied to the Honourable Member.

ADMISSION TO ENGINEERING SERVICE, E. I. RAILWAY.

658. ***Rai Bahadur G. C. Nag:** (a) Has the attention of the Government been drawn to a notice, dated 12th December 1922, issued over the name of Mr. G. L. Colvin, Agent, East Indian Railway, regarding examination

for selection of Anglo-Indian, European and Indian Apprentice Inspectors and Draftsmen for employment in the Engineering Department, East Indian Railway, which stated that sons of East Indian Railway employees and boys educated at Oakgrove School would have preference among those who passed a satisfactory examination?

(b) Does the Oakgrove School admit sons and boys of the Railway employees of pure Indian descent? If the answer is in the affirmative, will Government kindly supply the number of such boys now on the roll of that school? If the answer is in the negative, will Government kindly state why the boys belonging to a particular community should have preference over boys of other communities in the Engineering Service of this particular railway?

Mr. C. D. M. Hindley: (a) and (b). Government have seen the notice from which they gather that there is no preference for a particular community. As regards Indians, sons of East Indian Railway employees will have preference. As regards Europeans and Anglo-Indians two criteria will be applied. First, that they are sons of East Indian Railway employees and secondly, that they have been educated at the railway's School at Mussoorie.

MEDICAL SERVICES ON RAILWAYS.

659. ***Rai Bahadur G. C. Nag:** (a) Are there any Indians in service in the Medical Department of the East Indian Railway? If so, how many are there?

(b) What is the total number of Medical officers, *e.g.*, Chief Medical Officers, District Medical Officers, and Civil Surgeons in the employment of the railway classified according to nationality?

Mr. C. D. M. Hindley: The information asked for by the Honourable Member is being collected and will be sent to him in due course.

ISSUE OF RAILWAY TICKETS.

660. ***Babu Baidyanath Prasad Sinha:** (a) Is the Government aware of the fact that there is great inconvenience to third class passengers in purchasing tickets on account of the Booking Clerks issuing the tickets only a few minutes before the arrival of trains?

(b) Do the Government propose to issue instructions to the Railway authorities in this connection?

Mr. C. D. M. Hindley: (a) and (b). The Honourable Member is referred to the answers given in this Assembly to the following questions asked on the same subject:

- (1) Questions Nos. 633 and 635, asked by Rai Bahadur Pandit Jawahar Lal Bhargava on the 26th September, 1921.
- (2) Question No. 237, asked by Khan Sahib Maulvi Abdul Quadir on the 6th February, 1922.

INCONVENIENCES TO THIRD CLASS PASSENGERS.

661. ***Babu Baidyanath Prasad Sinha:** (a) Is the Government aware of the fact that there is great inconvenience to third class passengers on account of their not being permitted to go to the railway platforms

directly after they purchase tickets and that at many stations they have to wait long in enclosures before the gates to the platforms are opened for them?

(b) Do the Government propose to issue instructions to the Railway authorities to admit the passengers to the platforms at once when they are in possession of tickets and that they must not be kept waiting in enclosures?

Mr. C. D. M. Hindley: (a) and (b). Government are not aware that great inconvenience is caused to 3rd class passengers owing to their not being allowed on the platform as soon as they have purchased their tickets. It is not possible to lay down any hard and fast rule in this matter. It is the usual practice to admit passengers to the platform in ample time for the train, but the amount of platform space available, the density of traffic, and the safety of the passengers themselves must determine the period they may occupy the platform.

INSUFFICIENCY OF SEATING ACCOMMODATION ON RAILWAYS.

662. ***Babu Baidyanath Prasad Sinha:** (a) Is the Government aware of the fact that there is not sufficient supply of benches or other seating accommodation on first class railway station platforms and in the third class passenger waiting rooms?

(b) Do the Government propose to order the Railway authorities to make arrangements for their supply as soon as possible?

Mr. C. D. M. Hindley: (a) Government have no special information on the subject.

(b) The matter is within the competence of Railway Administrations but I may inform the Honourable Member that the question of the provision of benches or raised seating accommodation in third class waiting halls at important stations has already been brought to their notice.

OVERCROWDING IN THIRD CLASS CARRIAGES.

663. ***Babu Baidyanath Prasad Sinha:** (a) Is the Government aware of the fact that there is great overcrowding in third class compartments in through trains?

(b) Do the Government propose to order more through trains to run up and down so as to remove the inconvenience of third class passengers?

Mr. C. D. M. Hindley: (a) and (b). The Honourable Member is referred to paragraphs 85 to 88, Chapter VIII of the Administration Report, on Indian Railways, 1921-22, Volume I, copies of which are available in the Library.

RAILWAY TECHNICAL SCHOOLS.

664. ***Babu Baidyanath Prasad Sinha:** (a) Will the Government be pleased to say how many technical schools there are in connection with locomotive, carriage and wagon workshops at different railway centres where Indians are trained as mechanics and mechanical engineers?

(b) If there are not anywhere Indians receiving training as mechanics do Government propose to take any action in the matter?

Mr. C. D. M. Hindley: I would refer the Honourable Member to paragraph 34, Volume I, of the Administration Report on Indian Railways, 1921-22.

LOCAL ADVISORY COUNCILS.

665. ***Babu Baidyanath Prasad Sinha:** (a) Will the Government be pleased to say when the Local Advisory Councils recommended by Acworth Committee will be established?

(b) Will the Government be pleased to define their functions and to publish the scheme for public criticism before it is finally adopted?

Mr. C. D. M. Hindley: The Honourable Member is referred to the reply given to starred question No. 376 on 19th February, 1923. Since that reply was given, the Oudh and Rohilkhand Railway Administration has established a Local Advisory Committee.

FUNCTIONS OF DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

666. ***Mr. K. C. Neogy:** (a) What is the relation of the Director General, Indian Medical Service, to the Indian Medical Service as a service, i.e., is he the head of both the civil and the military sides or of the civil side only?

(b) If he is head of the military side also, in what respect does he function as regards appointment, transfer and promotion of Indian Medical Service officers?

Mr. E. Burdon: (a) The Director General, Indian Medical Service, is the head of the entire Indian Medical Service, both military and civil.

(b) Officers of the Indian Medical Service in military employ are under the immediate orders of the Adjutant-General in India so far as questions of appointment and transfer are concerned. All promotions are made by the Government of India on the advice of the Director General, Indian Medical Service.

Lieut.-Colonel H. A. J. Gidney: Will the Honourable Member tell me whether the Director, Medical Services, has any control over this department?

Mr. E. Burdon: Not the service as a whole?

Lieut.-Colonel H. A. J. Gidney: May I know in what capacity the control is?

Mr. E. Burdon: He has the usual control over those serving under him.

INDIAN MEDICAL SERVICE OFFICERS.

667. ***Mr. K. C. Neogy:** (a) Is it a fact that there are six Indian Medical Service Major-Generals appointments out of which four are allotted to the civil side and two to the military?

(b) Is it a fact that the two Major Generals' appointments on the military side are held by officers transferred from the civil side?

(c) Is it a fact that there are 16 Indian Medical Service Colonels appointments, out of which 10 are on the military and six on the civil side? How many out of the 10 military Colonels appointments are at present held by officers transferred from civil department?

Mr. E. Burdon: (a) and (b). Yes.

(c) The answer to the first part of the question is in the affirmative. As to the second part, 3 of the 10 Colonels now employed on the military side spent a portion of their service in civil employment, and were so employed when reverted to military duty on promotion to their present rank.

PROMOTIONS IN INDIAN MEDICAL SERVICE.

668. ***Mr. K. C. Neogy:** Is it a fact that when a vacancy occurs in the administrative grade of the Indian Medical Service on the civil side it is invariably filled up by promotion of junior officers on the civil side, passing over much senior officers of the service in the military department?

Mr. E. Burdon: No. The claims of all officers, whether serving on the military or the civil side, are considered for such appointments.

Mr. Ahmed Baksh: Is it a fact, Sir, that an Indian officer holding a military appointment was recommended, by the United Provinces Government to be made Inspector General, Civil Hospitals, and his claims were overlooked because he was serving on the military side?

Mr. E. Burdon: I should like to have notice of that question.

Lala Girdharilal Agarwala: Is it Colonel Kampta Pershad of the United Provinces?

Mr. E. Burdon: I cannot tell you. I do not know.

TRANSFERS FROM MILITARY TO CIVIL IN INDIAN MEDICAL SERVICE.

669. ***Mr. K. C. Neogy:** (a) Is there a law or regulation laying down the exact time of service when an Indian Medical Service officer may be transferred from military to the civil side?

(b) Is there a law or regulation laying down that an Indian Medical Service officer may be transferred and promoted to higher grade from civil to the military side, and that similar transfer may not take place from the military to the civil side?

(c) Will the Government be pleased to state as to who is responsible for this one-sided arrangement, the Director General, Indian Medical Service, as head of the Indian Medical Service or as head of the civil side?

(d) Is it a fact that there is no Major General's appointment on the military side of the Madras cadre and if the practice referred to in question (b) is to hold good, then is it intended that military officers on that cadre should not rise above the rank of Colonel?

Mr. E. Burdon: (a) No.

(b) No.

(c) In view of the replies I have just given, this question does not arise.

(d) The Honourable Member is mistaken in assuming that there is a military cadre for Madras. In view of the answer given to part 4 (b) above, the latter part of this question does not arise.

FAILURES IN INDIAN MEDICAL SERVICE.

670. ***Mr. K. C. Neogy:** Is it a fact that the Esher Committee had attributed the failure of the Indian Medical Service in the great war to the fact of the officers being too long in the civil employ in consequence of which they deteriorate from point of view of military efficiency?

Mr. E. Burdon: The Indian Medical Service was not a failure during the Great War, and the Esher Committee did not assert that it failed. I presume that the Honourable Member is referring to the passage in which the Esher Committee endorsed a military opinion expressed to them that the Royal Army Medical Corps, owing to its superior organisation and military training in peace time, and certain other causes, had proved itself on the administrative side more efficient in the field than the Indian Medical Service. It was admitted, on the other hand, that the officers of the Indian Medical Service were quite as efficient professionally as the Royal Army Medical Corps.

Lieut.-Colonel H. A. J. Gidney: Can the Honourable Member tell the House what the recommendations are that are going to be adopted by the Esher Committee?

Mr. E. Burdon: No, Sir.

SELECTION OF POSTS IN INDIAN MEDICAL SERVICE.

671. ***Mr. K. C. Neogy:** The medical being a transferred subject, is the selection for civil administration posts made by the Provincial Government or by the Director General, Indian Medical Service?

Mr. E. Burdon: The Director General, Indian Medical Service, is not consulted about the ordinary postings of Indian Medical Service officers in civil employ. These are made by the Local Government. The Director General, Indian Medical Service, is consulted when the services of an officer outside the provincial cadre are required.

MARRIAGE ALLOWANCE IN R. A. M. C.

672. ***Lieut.-Colonel H. A. J. Gidney** (i) Is it a fact that while a marriage allowance has been sanctioned for the personnel of the R. A. M. C., a similar concession has been refused to members of the Indian Medical Department?

(ii) Is it a fact that while Indian Medical Department officers stationed at Quetta receive a free allowance of 20 pounds of coal a day, R. A. M. C. corporals in the same station get a free issue of 80 pounds a day?

(iii) What is the reason for this difference of treatment?

Mr. E. Burdon (i) The grant of marriage allowance to members of the Indian Medical Department has not, so far, been refused. The question is still under consideration, and it is hoped that a decision will shortly be arrived at.

(ii) and (iii) The Government of India have no information on the subject but are inquiring. I will inform the Honourable Member of the result in due course.

Lieut.-Colonel H. A. J. Gidney: In the list of questions which I submitted to the Legislative Department, there were two others included, Sir, and I have heard no explanation as to why they have not been answered. May I ask the Honourable Member to inform me?

The Honourable Sir Malcolm Hailey: The practice is that the Government of India as such is cognisant only of questions which are admitted under the orders of the President; these are the questions that are answered.

UNSTARRED QUESTION AND ANSWER.

IMPROVEMENTS TO STOCK ON A.-B. RAILWAY.

258. **Rai Bahadur G. C. Nag (a)** Is it true that the estimates for improving third class carriages and Coupe composites of the A. B. Railway amount respectively to Rs. 8,53,000 and Rs. 5,83,000, and during 1923-24 a proportionately larger expenditure is proposed to be incurred on the latter than on the former? Will Government ascertain from the railway concerned the reasons for this differential treatment?

(b) Is it not a fact that during 1920-21, third class passengers accounted for 96 per cent. of the total passenger traffic on this railway?

Mr. C. D. M. Hindley: (a) The amounts provided during 1923-24 against the two estimates mentioned are for completion of the work and therefore no question of differential treatment arises. Further provision has been made against 1923-24 to the extent of Rs. 6·7 lakhs for additional third class carriages and Rs. 2·2 lakhs for upper class stock.

(b) The reply is in the affirmative.

MESSAGES FROM THE COUNCIL OF STATE.

Secretary of the Assembly: Sir, two Messages have been received from the Secretary of the Council of State as follows:

"I am directed to inform you that the Council of State have, at their meeting of the 26th March, 1923, agreed without any amendments to the Bill for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners, which was passed by the Legislative Assembly on the 22nd March, 1923."

The second Message is as follows:

"I am directed to inform you that the amendments made by the Legislative Assembly in the Bill to consolidate certain enactments relating to Merchant Shipping, were taken into consideration by the Council of State at its meeting of the 26th March, 1923, and that the Council has agreed to the amendments."

BILL LAID ON THE TABLE.

Secretary of the Assembly: Sir, in accordance with Rule 25 of the Indian Legislative Rules I lay on the table the Bill to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions, which was passed by the Council of State on the 26th March, 1923.

AMENDMENT OF STANDING ORDERS.

Mr. President: I present the Report of the Select Committee on the amendment of the Standing Orders.

ELECTION OF MEMBERS TO PUBLICITY ADVISORY COMMITTEE.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I beg to move:

"That this Assembly do proceed to elect, in such manner as the President may direct, seven Members to the Advisory Committee to assist in the conduct of the publicity work of the Government of India."

As is well known to the Members of the Assembly, we have at present a nominated Advisory Committee for Publicity matters for whose services I think we and the Assembly are under a great obligation. Lately the question of the constitution of the Committee was re-examined by a sub-committee appointed, and they advised that a change should take place, namely, that seven members of the Committee should be elected by the Members of this Assembly, two by the Members of the Council of State, and six should be nominated by Government of whom three would be representatives of the press, and that Government should appoint a Chairman of the Committee. Therefore, except for the Government nominations, the bulk of the Committee would be elected instead of being, as at present, nominated. The functions of the Committee would be to advise Government in regard to its publicity work and to draw up the budget dealing with publicity work. These are the main functions. All I seek at present, is to ask the House to approve of the election of some seven of its Members to serve on this Advisory Committee, the election being held in such manner as you, Sir, may direct.

The motion was adopted.

THE EXCLUSION FROM INHERITANCE BILL.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): Sir, I beg to move:

"That the Report of the Select Committee on the Bill to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts, be taken into consideration."

Sir, I do not propose to make any long speech on this occasion. The object of my measure is to remove the disqualification set forth in one of the texts of Manu which says that certain persons who have some defects from their birth or who suffer from certain diseases, should be excluded from inheritance. Already, as regards one portion of it, there has been legislation at the instance of the Government. So long ago as 1850, in the Act known as the Caste (Removal of Disabilities) Act, a portion of this text was legislated upon and the disqualification relating to exclusion from inheritance by having become a convert was removed. I am trying, Sir, by this Bill to remove the other disabilities which are mentioned in the subsequent portion of the same text. I explained the matter more fully on the last occasion. Therefore it is not necessary to say much. There is only one matter to

which I should like to refer, and that is this, that there has been different interpretations upon the words in the text which says that the defect should be from birth. Whether the words "from birth" qualify all the clauses or whether it applies only to a particular class of cases is a matter upon which the Courts have taken different views. When the matter was before the Select Committee, Sir, they examined the matter very fully and their Report shows that all possible attention was given to the various contentions raised on this matter. They have made a recommendation, Sir, on one matter on which I should like to say a word. They say that the Bill should not be taken into consideration in the event of Bengal being included in the Bill. The reason is that when I originally introduced the Bill I excluded Bengal, and they say, if Bengal is to be included, there should be republication. It is for this House to say in the first place whether Bengal is to be excluded, and, if Bengal is to be excluded, then the recommendation of the Select Committee that the Bill be taken into consideration may be accepted by this House. But in the event of this House coming to the conclusion that Bengal should be included, this House will have to decide whether it is not necessary to republish the Bill and whether we may proceed to consider the Bill. As regards other matters, I made a number of speeches on previous occasions and I do not like to weary the House any further. I move, Sir, that the Bill be taken into consideration.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): With great regret, Sir, I beg to move:

"That the consideration of this matter be deferred."

Sir, this is the last day when we are going to be detained here and from the listless way in which my Honourable friend's remarks have been received in this Assembly, Honourable Members will gather that their minds are pre-occupied with the serious crisis which has arisen in the constitution to-day. Sir, we want to meet and decide as to what further course of action we should take. My object in moving this motion for postponing the consideration of this measure is that the rest of the day may be available to the Non-Official Members of this Assembly for concerting such measures as may be taken constitutionally to prevent the certification procedure which His Excellency the Governor General proposes to take. In that view I hope Honourable Members will support me in this motion. I do not think this is the time for us to spend on this child's play, legislating on this and on that when we have got serious constitutional questions at issue. Sir, these measures may wait. They have waited so long. I do not think I shall be doing any injustice to my Honourable friend—I am sorry I have to do it—I do not think I shall be doing any injustice to my Honourable friend by making this motion. On the other hand, I hope that all other Members whose motions stand on the list to-day will join with me in making this application to the House, so that we may have the rest of the short hours that we have at our disposal to decide what course of action we should take. Sir, I move the postponement of the consideration of this measure.

Mr. President: I am not sure that I can accept a dilatory motion in the circumstances, except in the form of re-circulation, which is on the paper. As the Honourable Members are aware, a dilatory motion virtually means that the Bill cannot be passed. I think it would be unfair on the part of the Chair at this stage to accept a dilatory motion of that character.

Rao Bahadur T. Rangachariar: If I put myself in order, Sir, I will propose the motion that it be recirculated.

Mr. President: The original question was :

" That the Bill be taken into consideration."

Since which an amendment has been moved :

" That the Bill be re-circulated for the purpose of obtaining opinion thereon."

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, I beg to support the motion, though not exactly on the grounds that have been put forward by Mr. Rangachariar. If Members have other duties, they must find other time for it, and if it is right for us to go on with this Bill, we should go on apart from the considerations of expediency that have been put forward. I do not know how Bengal came to be included within the purview of the Bill. It was not included in the original Bill. Bengal certainly objects to being included. I believe Assam also does so. So far as the tracts governed by the Dayabhaga School of Hindu Law are concerned, they have enough reason against the Bill. There are other reasons which may be gone into later. For the present I support the motion for re-circulation.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I beg to have a ruling from the Chair as to whether after this motion, which has just been made regarding consideration of the reasons underlying the Bill, other people who have given notice of motions that the Bill be re-circulated, will be heard or not. If that be so, Sir, and they be heard, of course we need not go into the question of consideration of principles, at this stage. As to the defects in the report of the Select Committee, I may submit to the House that there is a difference of opinion as to what class of persons should be excluded, and there are various other reasons which arise in connection with the question for re-circulation.

Mr. President: I am not quite sure that I appreciate the Honourable Member's point of order. Two questions have already been put from the Chair, one in the form of an amendment to the other. I shall again put these questions when this debate comes to an end. The House will first of all decide whether the Bill be re-circulated or not, and if not, then whether it be taken into consideration.

Mr. J. N. Mukherjee: For instance, Sir, what would be my own position? I have given notice of a motion for re-circulation. It is as those standing in the name of others. (*A Voice:* "Do you support or oppose the motion?") I support. There are other reasons besides those already given. This is my submission, and if the House is disposed to hear me on these points, I am prepared to urge them. The first point as to the report of the Select Committee, to which I invite the attention of the House, is the nature of the report itself. My Honourable friend, Mr. Rangachariar says in his note of dissent in the Select Committee's report that the meetings of the Select Committee were convened in a very irregular manner. In fact, many of the Members could not be present, and in a matter of such great importance, where for the first time a new principle is going to be enunciated, or rather no principle is going to be enunciated in violation of the principles which find favour in the Hindu Smritis in a matter of such grave importance, a systematic and well-considered opinion was not attempted to be obtained. In the second place, my submission to the House is that this Bill does not stand by itself. In this connection I may be permitted to refer the Honourable Members to certain passages in the opinions which have been circulated to us. Apart from the other questions that it was

treated throughout as a purely administrative measure and so on, the opinions of religious heads of Hindus who are primarily concerned in this matter, apart from their holding any position as Members of an Association—of a Bar Association, I mean to say, not any other Hindu Association—or any official position, were never obtained.

Mr. T. V. Seshagiri Ayyar: You are wrong. I can show you the contrary.

Mr. J. N. Mukherjee: I put a question in the Assembly and the reply to it was as follows. My question was put on the 10th March, 1923. It was:—

“Will Government be pleased to state what Hindu associations, religious heads of institutions, representative Hindus of the orthodox communities, and other prominent persons and associations outside the Hindu community were consulted by them with a view to obtain their opinion on the following Bills?”

and amongst the Bills mentioned was Mr. Seshagiri Ayyar's Bill for alteration of the Hindu Law of Inheritance. The reply given was:

“The Honourable Member is no doubt aware that no motions were made in this Chamber for the circulation of these Bills for opinions. In order, however, to enable Government to come to a conclusion as to the attitude to be adopted by them towards the Bills, the Government of India circulated them inviting the opinions of Local Governments and Administrations, the High Courts, Chief Courts and Judicial Commissioner's Courts, the Bar Associations and such other authorities as the Local Governments thought fit to consult.”

These are the classes of associations and persons who were consulted in this matter. Now, under cover of a private Bill, as the Honourable the President is fully aware, a matter of grave public importance is going to be introduced by the Bill for legislative treatment. Of course, a great deal of the present situation is due to our ignorance of the exact procedure that obtains in Parliament in such matters, where under cover of private Bills questions affecting the public at large are attempted to be introduced, and I shall presently draw the attention of the House to that aspect of the question. But for the present I should like to invite the attention of Honourable Members to page 13 of the printed notes which were circulated to the Members. Here is one, from Mr. V. M. Ferrors, District Judge of Canara. This is what he says, and his observations seem very pertinent to me:

“Being myself much addicted to a religion of my own, I observe with recurring surprise the readiness of some Hindus and some Muhammadans to submit their sacred law to the manipulations of a secular Legislature.”

Then he goes on to say:

“In my own opinion these operations are perilous. A proposal for the reformation of an ancient faith may seem attractive and liberal; but to such a process there is no end. The theory of the Hindu Law is (I believe) similar to the theory of every other religion. The revelation once delivered by the Rishis is the very Dayspring from on high. It may be too dazzling to be clearly seen. It cannot possibly be in need of correction. When the navigator”

Mr. President: Order, order. That quotation is hardly relevant to this question. The Honourable Member is supporting the motion asking for further opinion on the ground, presumably, that the Select Committee in considering the Bill was not fully seized of the issues before it. The issue is quite narrow.

Mr. J. N. Mukherjee: What I was going to submit to the Honourable Members of this House is that, I should like to point out in the first place the gravity of the present situation. As I have already submitted to the House, in matters of this kind, perhaps in another place, in the Mother of Parliaments, this procedure which has been taken would not have been allowed. We are on the brink of a great . . .

Mr. President: Order, order. The Honourable Member will see that he could repeat that speech word for word on the motion that the Bill be considered. These are arguments for considering or not considering the Bill. The issue now is whether the House and the Select Committee had sufficient materials before them to pass a judgment which this House ought to endorse or not. That is the sole issue.

Mr. J. N. Mukherjee: I can understand it, Sir, and I will address myself to that point, but it is so very difficult to detect one aspect of the question from another because they are parts of the same point. But if we have to classify the two parts of the argument, I must say that so far as recirculation of the Bill is concerned, my observations end there. Only official bodies and administrations, and Bar Associations and similar societies were consulted. Now, the second point in this connection is that the report of the Select Committee itself contains sufficient materials to enable the House to come to the conclusion that the Bill was not properly considered. Mr. Rangachariar, as a Member of the Select Committee, says:

“I have in the first place to place on record my protest against the way in which the Select Committee meetings on this important measure were convened, cancelled or held. The first meeting was convened for Wednesday the 21st February to be held after the Assembly rises for the day . . .”

Mr. President: Again the Honourable Member is entitled to put forward these arguments on a motion that the Bill be re-committed to the Select Committee. These are arguments to show that the Select Committee did not discharge its duty properly. There is a motion for re-submitting the Bill to the Select Committee and I must protect the discussion of that motion.

Mr. J. N. Mukherjee: But, Sir, if these points be taken together, that is to say, the want of full consideration, and along with that, what I have already submitted, *viz.*, that public opinion from the religious heads and other people who can speak authoritatively on the point has not been elicited,—if these two be taken together, a good case for re-circulation would be made out. I move, Sir, that the Bill be re-circulated for obtaining opinion thereon rather support such a motion.

Mr. T. V. Seshagiri Ayyar: May I say a word? I can understand a motion that the Bill be scrapped, but the motion that this Bill be re-circulated, I think, ignores the steps that I have taken to get the opinions of as large a number of people in India as is possible. I shall tell you in a minute what I did. I was not content with the Government circulating the papers. What I did was this. I had about 2,000 copies of the Bill printed and with a copy of the Statement of Objects and Reasons I sent a copy to every religious head in this country, to every Member of the Legislature, whether it be the Central Legislature, or the Provincial Legislatures. I addressed every Bar Association throughout the length and breadth of India, I sent copies to every newspaper in India, and I addressed specially an article, to two important orthodox

papers and asked those newspapers to invite opinions from orthodox gentlemen. I have done all that is possible because I did not want to hurry this matter through. In these circumstances to say that full opinion has not been obtained and therefore the Bill ought to be re-circulated, I cannot understand. I can understand an honest motion that this Bill be not proceeded with, because the House does not want this Bill, but to say that every step has not been taken to get the opinions of as many people as are competent to give it is a thing which cannot be said in the case of my Bill.

Mr. President: The original question was:

“That the Report of the Select Committee on the Bill to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts, be taken into consideration,”

Since which an amendment has been moved:

“That the Bill be re-circulated for the purpose of eliciting opinion thereon.”

The question that I have to put is that the Bill be re-circulated.

The Assembly divided.

AYES—20

Ayyangar, Mr. M. G. M.
Bhargava, Pandit J. L.
Hussanally, Mr. W. M.
Jafri, Mr. S. H. K.
Jamnadas Dwarkadas, Mr.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.

Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Singh, Babu B. P.
Sinha, Babu Ambica Prasad.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Tulshan, Mr. Sheopershad.
Vishindas, Mr. H.
Webb, Sir Montagu.

NOES—37.

Abdul Majid, Sheikh.
Abdul Qadir, Maulvi.
Abul Kasem, Maulvi.
Achariyar, Rao Bahadur P. T.
Srinivasa.
Ahmed, Mr. K.
Ahmed Baksh, Mr.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. C.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Bhanja Deo, Raja B. N.
Bridge, Mr. G.
Dalal, Sardar B. A.
Ghulam Sarwar Khan, Chaudhuri.
Gidney, Lieut.-Col. H. A. J.
Gulab Singh, Sardar.

Haigh, Mr. P. B.
Jatkar, Mr. B. H. R.
Lakshmi Narayan Lal, Mr.
Latthe, Mr. A. B.
Mahadeo Prasad, Munshi.
Man Singh, Bhai.
Misra, Mr. B. N.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Muhammad Lmail, Mr. S.
Nag, Mr. G. C.
Percival, Mr. P. E.
Reddi, Mr. M. K.
Sams, Mr. H. A.
Sarfaraz Hussain Khan, Mr.
Singh, Mr. S. N.
Sinha, Babu L. P.
Townsend, Mr. C. A. H.
Venkatapatiraju, Mr. B.

The motion was negatived.

Mr. M. G. M. Ayyangar (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): There is no doubt that under the existing Hindu law, a person who is from birth blind, deaf or dumb and a person who is insane either from birth or when succession opens are disqualified from getting property from inheritance or from claiming any share in the joint

[Mr. M. G. M. Ayyangar.]

family property. The object of the Bill was to remove the grounds on which these people were excluded from inheritance or a share in joint family property because in the opinion of the author of this Bill 'that in the times that we live in, such grounds of exclusion should not be allowed to deprive a person of temporal rights and the grounds of exclusion according to him as stated in the objects and reasons of the Bill were that their present condition is due to sins in their former birth and that they are therefore not entitled to share in the patrimony.' The Honourable author of this Bill had given at an earlier date the grounds on which this exclusion is based. He stated then "If the exclusion is not based on original sin or subsequent incapacity to offer oblations and the like, the suggestion that it was due to a belief in the inability of the heir to manage temporal affairs is more plausible—very likely, the rule is an outcome of a hazy notion that the property should be preserved for the disqualified person by those who are related to him." It seems to me that it is not complimentary to the ancient jurists to say that they based the exclusion from inheritance of these unfortunate persons because of their sins in former birth and inability to offer oblations.

I wish to impress upon those who seem to be in favour of this Bill, one thing, namely, that they are not attempting to do any good to the disqualified persons but only trying to do them harm by this piece of legislation. Some of the Members of this House and some outside this House seem to me to think that the reason for the exclusion is only superstitious. It is not really so. But it is based purely on secular and business like considerations. It only prevents these persons during the continuance of the incapacity from becoming tools in the hands of designing persons because they are incapable of taking care of themselves. The reason is nothing but a desire, a sincere desire to do good to these disqualified persons. Honourable Members will see that the rules of the law which excludes these disqualified persons from inheritance or a share in the joint family property preserves the property intact for their issue or their successors and grants maintenance to them, their widows and their unmarried daughters. It is not that their share of the property is swallowed by their coparceners to the detriment of these disqualified persons and their heirs. It is not that their widows and daughters are not entitled to maintenance. All these rights are preserved intact. Only the disqualified persons are not allowed to manage their property. Thus, Sir, you see that this rule of law preserves the property intact for the benefit of his heirs or successors. It only guards against scheming people taking advantage of the helpless condition of these disqualified persons and making them lose their property. By the doing away of the present restriction and conferring absolute powers on these disqualified persons the near relations such as coparceners and others who would ordinarily have taken care of them, would naturally neglect them and become indifferent. And that will be the ultimate result of this Bill if it should be passed into law. Now I ask you, Sir, can anybody say, a rule of law which grants maintenance to these disqualified persons, their wives and daughters and which preserves the property intact for their heirs and successors—can anybody say that this is not good, that this is based on superstition and that this law should therefore not be allowed to exist in the times that we live in? It is this rule of law, Sir, that is now attempted to be changed by this measure now before the House.

The theory propounded in the 43 Madras case which seems to have influenced to a large extent the opinions of the Government of Madras and that of the Central Provinces and also that of most of the Judges of the Madras High Court—and I may here be permitted to point out that these are almost the only opinions in favour of this Bill whereas the whole body of the rest of the opinion is against this measure,—the theory propounded in the 43 Madras case by that social reformer Judge—Justice Sadasiva Aiyar that “the rule of Hindu Law preventing a person born blind from claiming an interest along with his brothers as a co-owner in ancestral property has become obsolete”—this theory the correctness of which was doubted in the later case in 44 Mad. 704 has been entirely disagreed by a still more recent Full Bench case of the same High Court reported in 45 Mad. 949. The only reason assigned by Justice Sadasiva Aiyar in support of his conclusion that the rule of law has become obsolete, namely, that a rule becomes obsolete when the reason of the rule disappears through change of circumstances and environments in the society which was governed by that rule has been criticised and stated to be not correct. His Lordship the Chief Justice Sir Walter Salis Schwabe in page 962 of 45, Madras says, “A Law does not cease to be operative because it is out of keeping with the times. A Law does not become obsolete because it is an anachronism, or because it is antiquated, or because the reason why it became originally the law would be no reason for its introduction of such a law at the present time. To hold the contrary would be an entire misunderstanding of the meaning of the legal maxim *cessat ratio cessat lex* which is relied upon in support of the contrary opinion.”

I am sure that if the Madras Government and the Government of the Central Provinces had had the latest Full Bench case in 45 Madras, they would surely have modified their opinion.

Another objection I respectfully urge is this that such a measure should not be brought in the Central Legislature of the country. As observed by the Honorary Secretary of the Calcutta Vakils' Association in his letter to the Secretary to the Government of Bengal on the 20th December 1921, in connection with this Bill and the Hindu Inheritance Bill which is also on the agenda of to-day “the principle underlying both these Bills, aiming as it does, at an alteration of the Hindu Law by a process of direct legislation with the aid of a majority of votes in the Assembly, composed as it is of persons belonging to communities other than Hindus or whose sympathies with Shastric injunctions are sometimes of an attenuated character is likely to prove distasteful to the vast majority of orthodox Hindus, and this House will fail to appeal to it as an appropriate machinery for effecting such a change. A far more satisfactory course would have been the one suggested by the Government of Bombay in their letter of the 24th July 1922, namely, such measures which affect the intimate personal and sectional interests of particular communities can be more fairly and effectually debated in the provincial councils, which are more closely in contact with the phases of public opinion which are most entitled to be consulted; and the communities concerned are more fully and perhaps more effectually represented in them.

Sir, the Honourable the Mover has said in the Statement of Objects and Reasons of the Bill that public opinion had expressed itself strongly against the disability which the present scale of the Hindu Law

[Mr. M. G. M. Ayyangar.]

imposes on them. I do not know when and how public opinion expressed itself so strongly. If Honourable Members will only go through the papers circulated in connection with this Bill, they will see that the contrary is the case.

The original Bill which was introduced wanted that no person should be excluded from inheritance or from a share in joint family property by reason only of any disease, deformity, physical or mental defect; and the Bill which has emerged from the Select Committee states that persons other than one who is and has been from birth a lunatic or idiot shall inherit and have a share in joint family property, i.e., persons who are from birth blind, deaf or dumb shall inherit and get a share in the property. The rule of Hindu Law as contained in Manu, does not make any distinction between persons born blind, deaf or dumb and a lunatic or idiot. If persons born blind, deaf or dumb are entitled to any consideration in the present day, the lunatic and the idiot also are entitled to the same consideration. I am not able to understand why the Select Committee gave this unequal treatment to these disqualified persons. The exclusion and the inclusion of the class of persons seems to be arbitrary and not guided by any principles.

In a matter of this sort which as I stated aims at the alteration of the existing laws, unless there is a demand by the whole community of Hindus, it is not safe for us to undertake legislation in this manner. This piece of legislation may, I am afraid, offend the religious susceptibilities of the vast majority of the community. Whatever may be said about sentiments in other matters, I submit that sentiment in a matter like this ought to be respected and no innovations should ever be attempted to be made which are not in accordance with sentiments.

I make bold to think that even the very few who were in favour of the original Bill may not like this mutilated Bill.

The case in 43 Madras has been overruled by the Full Bench in 45 Madras. Bengal which was excluded by the original Bill has been included by the Select Committee. So far as Madras is concerned. I do not see any opinion collected from the mofassal. I presume it is the same thing with regard to most of the other provinces.

In matters of this kind, it is better that the opinions of expert Sanskrit scholars and Pandits are also obtained. For as was said by the editor of the *Madras Law Journal*:

"One thing that the educated man is clearly to realise, if he wants to really effect any reform, is that his influence in matters religious is slender and in fact bears little relation to his position and influence in matters secular. If he imagines that he will be able by his secular influence to effect religious opinions in the country, he is suffering from a totally wrong perspective and his attempts at reform have little probability of success. Even in matters in which the religious susceptibilities have little reason to come in, it is well that the suspicion of the ordinary man is not roused, and with that view, we would have the committee investigating the matter composed not only of advanced reformers but also of men about whose orthodoxy, there is no question."

With these words, Sir, I oppose the consideration of the Bill.

Mr. President: I intended to call the Honourable Member to move his amendment to clause 2, but . . .

Rao Bahadur T. Rangachariar: I do not know, Sir, that you have yet put the motion for consideration.

Mr. President: As a matter of fact it escaped my mind and I was consulting the Secretary at the moment whether I had done so. The House is now on the motion for consideration.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa: Nominated Non-Official): Sir, I am very sorry that I have to oppose our respected Leader, the Honourable Mr. Seshagiri Ayyar, but I do so, I think, in pursuance of the noble lessons imparted by him, always to have the courage of one's conviction. The Honourable Mr. Seshagiri Ayyar is a scholar of Hindu law and was an eminent Judge. I appeal to him to decide his own case on the collected record of the opinions from all the provinces. I am confident that, if he will carefully examine the collected opinions, he will have to decide his own case against himself. Opinions have been invited from thirteen provinces. The opinions of five of them are almost equally divided; three of them are in favour of the Bill and five of them against it. So, on the whole, the opinion of the country is against this Bill; and even those who are in favour of this Bill are only in favour of the principle of the Bill but not in favour of the Bill as it has been laid before this House. Sir, conservatism is not always bad; the wisdom of conservatism is being gradually realized by science. I may be pardoned for giving one example. The Hindus are said to be conservative in enunciating the rule that if the finger comes in contact with the tongue it becomes untouchable so long as it is not washed. The principle enunciated therein has been, now, recognized by science. I find in all railway trains, as well as in big buildings, a notice hung up saying, "Please do not spit on the floor." What is that? It is just the same principle; if your finger comes in contact with your tongue you are likely to touch other articles which may come in contact with other persons. So we should not dislike everything which is old. We should carefully examine it; not so hurriedly as is being done in the case of the Hindu Law which should be considered, in a proper body constituted for the purpose. Piecemeal legislation in a matter like Hindu Law is never advisable, many eminent persons hold that the whole of Hindu Law should be considered together by Commissioners appointed for the purpose if any legislation is at all required to be undertaken. With these few remarks, Sir, I oppose this Bill.

Rao Bahadur T. Rangachariar: Sir, I beg to oppose this motion. It is a very serious measure which my Honourable friend has tabled. It requires considerable thought on the part of the Legislature, and I do not think my Honourable friend is doing justice to his community or to the ancient Hindu Law by trying to press this motion at the far end of a Session like this when the House is thin and perhaps much tired and worried. Sir, that on such occasion like this my Honourable friend should press his motion for consideration of such an important measure, to which he says he has devoted his life, passes my comprehension. Sir, I would have expected from the Leader of a Party, as my Honourable friend is, to agree to the wishes of people who are vitally interested in a matter like this, not to snatch a victory by the votes of Muhammadans and Europeans, but to get the approval of the Hindu Members of this House to his measure. Sir, I ask the House to glance at the last Division List; can it be said that my Honourable friend is getting the support of the Hindu Members of this House for his measure, for whose benefit he is enacting a measure which is

[Rao Bahadur T. Rangachariar.]

making an inroad into the law of inheritance. Sir, let us secure a victory after a fair fight. Sir, I ask the House, I ask my Honourable friends, both European and Muhammadan, not to lend the weight of their support to a measure like this when they find that the whole of the Hindu Members are opposed to it. It is not fair to the Hindu community. It is not right on our part to come and make the piecemeal inroad into our legislation. Sir, on the Select Committee, I did try my best to make such improvements as may be made, and I am not one of those who are wholly opposed to the measure. I am quite willing to say that some portion of the law of exclusion should be set right. But, Sir, here is a matter which requires your consideration. The Select Committee, as Honourable Members will see from my minute, met haphazardly. Most of the Hindu Members were absent, and, Sir, to say that this is a measure which ought to be forced on the consideration of the House at this juncture seems to me a travesty of justice and fair play. Sir, I ask the House to oppose this motion. He has educated public opinion on this matter. I am sure my Honourable friend will come back to this House in July and he should have this measure fully considered then. I am sure my Honourable friend will not lose anything. I ask him to accede to the wishes of the Hindu Members. If he does not, I ask the House to oppose the motion.

Sir Deva Prasad Sarvadhikary: Sir, I feel bound to oppose the motion for taking this Bill into consideration, and in doing so, I am obliged at this stage to make a statement which I was very unwilling to make earlier as the Bill was likely to be deferred. The amount of rush that has attended the consideration of this measure is to me unintelligible. Mr. Rangachariar has brought out one or two facts in connection with the Select Committee proceedings in his minute of dissent, I am bound now to add to them. The Select Committee meetings were called several times, and the meetings were not held at the time and place advertised and were held at time and places of which I had no due notice. As a Member of the Select Committee I had no opportunities of attending any of the meetings of the Select Committee—not my fault. Then, Sir, whoever was responsible for it did not think it necessary even to send the draft Report of the Select Committee to one of the Members to see whether he would sign it or annex a note of dissent to it. That is the position, and that is the explanation why my name does not appear on that Report. I do not want to apportion the blame to anyone,—it might be the office or it might be anybody else, but what was right was not done. My friend says he had nothing to do with the matter; I do not suggest he had. Anyway as the mover of the Bill, he might have seen that this was attended to.

Mr. T. V. Seshagiri Ayyar: May I offer a personal explanation, Sir. I think Sir Deva Prasad Sarvadhikary told me that his name did not appear in the Report. I asked the Joint Secretary at once why his name did not appear and why the report was not circulated to him. I want him to bear that fact in mind; I wanted to be as fair as possible.

Sir Deva Prasad Sarvadhikary: And even then it did not come to me.

Mr. T. V. Seshagiri Ayyar I was not responsible.

Sir Deva Prasad Sarvadhikary: I do not say he is. I am stating this to the Assembly that it is voting away the rights of Hindus, rights or wrongs

whatever they may be, by what Mr. Rangachariar has stated to be the votes of Europeans, Muhammadans and non-Hindus in general. I do not deny the right of this Assembly to legislate with regard to all communities after due consideration, but this Bill has not received anything like due consideration, and it will be wrong and absolutely wrong to pass it without that consideration being vouchsafed to it.

Mr. J. N. Mukherjee : Sir, I should like to supplement what has fallen from my Honourable friend by referring to one or two points in connection with this Bill, and in connection with the fact that a measure of this importance has not received the consideration that it ought to have received at the hands of the Select Committee. Sir, the mischief which is invariably present when private parties wish to put forth their individual ideas and try to reach victory by means which satisfy their own desires is present in a far larger degree in a case of this kind than in the case of ordinary private Bills which are registered as such in the House of Commons : and I crave the indulgence of the House to refer to one or two passages in May's Parliamentary Practice, page 608 (edition of 1920) :

"In passing public Bills Parliament acts strictly in its legislative capacity. It originates the measures which appear for the public good, it conducts inquiries when necessary for its own information, and enacts laws according to its own wisdom and judgment. The homes in which its deliberations are conducted are established for public convenience, and all its proceedings are independent of individual parties who may petition indeed and are sometimes heard by counsel who have no direct participation in the conduct of the business or immediate influence upon the judgment of Parliament."

Now, Sir, we in this House are in the very beginning of Parliamentary life. We are still unfamiliar, not only we but the officials also are still unfamiliar, with the detailed rules of parliamentary procedure. Indeed, we have not yet obtained the right of petitioning, and I think that right of petitioning is still in the legislative cauldron, and people in this country have not yet come to know that there is in fact a right of petition by which objection can be taken to private Bills. Whereas in Parliament the matter has a long history of its own and it dates back to a time before the present procedure had developed. The difference which exists in the Mother of Parliaments as regards private and public Bills has been obliterated in our Legislature. Rules and Standing Orders have been framed, but we find that the whole conception regarding them, is still, if I may say so, boiling in a cauldron. Therefore, Sir, it requires great care as to how we proceed with reference to such private Bills as the present, which in reality are public Bills affecting the country at large ; and in a measure of this kind.....

Mr. President : The Honourable Member is confusing two questions in using the words " private " and " public ". He calls the Honourable Member's Bill " private " because it is non-official—using " private " in the technical English Parliamentary sense. In that, he is mistaken. This is, in every sense, a " public " Bill.

Mr. J. N. Mukherjee : That is what I am submitting to the House. The whole difference will at once strike the House, if it takes into consideration the fact that when the originating source is the Government the treatment is different.....

Mr. President : The Honourable Member is wrong : for the distinction between " public " and " private " does not arise in that case, as Private

[Mr. President.]

Bill Legislation in England is solely concerned with specific matters of limited application and local concern, such as the municipal boundaries and the like in contradistinction to matters—as our phrase runs—of “General Public Interest.” The Honourable Member is mistaken in thinking that the distinction between Private Bills and Public Bills in England is the same as the distinction between Official Bills and Non-Official Bills in India. The two distinctions are quite different.

Mr. J. N. Mukherjee : Of course the classification is entirely different in this country and the classification in the British Parliament unfortunately does not exist here. But the principle is the same in all cases. In England, I find in May’s Parliamentary Practice, if a Bill of a limited character affecting only individuals or classes or a locality is brought before Parliament, there is a special department which scrutinises it; counsel are heard on both sides and evidence is taken and so forth. The question of a private Bill here, in the present instance, is one which without using the word ‘private,’ I may submit to the House, is purely of a public character, and as such, it ought to have originated from the central authority, as in England. There it should have found ample unbiassed consideration before its introduction. The Legislative Department, in India, I think, and the different Law Members from time to time have been considering this question of codification of Hindu Law and how to tackle different points of Hindu Law; and if there has been any delay in formulation, the delay is perhaps due to the fact that the Government wishes to consider all aspects of the question, to ascertain public opinion and to find if there is a residue of public sentiment upon which the Government can start legislation. But that is not so in the case of a private individual who propounds a Bill. A private individual conceives an idea. He thinks the idea is very good. He feels here he has the chance of handing down his name to posterity as a legislator. All these considerations actuate him, but not the Government. Therefore, I submit, Sir, the initial difficulty that meets us in the present case is this: we have been landed in this House for arriving at a decision at the fag end, rather the last day of the session when we are about to rise, and a Bill of this important character is attempted at this moment, to be rushed through; and the impatience is great because otherwise it might slip through one’s fingers and therefore whether it is good, bad or indifferent, this Bill must be passed. Then, Sir, whenever objection is taken in England as regards a Bill of this character, on the ground of its not being a private Bill—the Honourable the President will perhaps support me on this point—the Bill is removed from one class to the other and made a public Bill. In deciding the point, evidence is taken in England. Where was evidence taken in connection with the present matter? It would not do for one to say that he has done so. The Honourable Members have not the slightest means of coming to know what public opinion is on the points involved in the present Bill. We are asked to legislate in the dark. But one thing I do know, that a question of great importance is going to be decided for the first time in this House in spite of anything that may exist to the contrary in the Hindu Law on the point. We are engaged in a House like this composed not of representatives of religious bodies and of different communities of Hindus in making a law on certain points that will over-ride Hindu Law, without the Hindu community as a whole being consulted in the way one would like it to be consulted, not privately, not for the satisfaction of one’s private desires, but from an exactly opposite point of view.

Now, Sir, let us consider the grave questions of importance that are involved in the Bill itself. There is not the slightest doubt that very little attention was paid to this Bill when it was first launched into this House, because we find that even insane persons were included in the original Bill as persons in respect of whom the law of exclusion should not operate. The slightest thought would have disclosed the fact to any member taking an interest in the question that a desire to vest an insane person, with property and right over property is something which is very difficult to understand. The rule as to him, that he should be excluded from the operation of the Hindu Law as to exclusion from inheritance, can be enforced only by supposing that it is the superstitious Hindu who enacted this rule of exclusion and it is not in consonance with modern ideas. Let us see, Sir, whether his case under the Hindu Law is consonant with modern ideas. That it is so, will appear from the fact that at least so far as insane persons are concerned, their case has been placed by the Select Committee outside the law which is sought to be promulgated by it, namely, that if a person is insane from birth, in respect of such a person the Bill should cease to have operation ; but that those who are insane at the time succession opens out, should come within the operation of the Bill and will not be affected by the rule of Hindu Law. Now, Sir, the Honourable the Mover of this Bill was himself a Judge and is well versed in Hindu Law. He knows that this question regarding insane persons is a very controversial matter—there has been controversy over this question, which arose not in disrespect of anything said in the Hindu Law itself, but owing to different interpretations given to texts of Hindu Law. That is the way in which Hindu Law seems to have been altered or adjusted, in other words, Hindu Law has been interpreted so far but not negated, practically speaking. A proposal to ignore authority, to set at naught all authority, in Hindu Law is a procedure, I submit, which has been for the first time suggested to this House. Then, Sir, let us take the case of the leper. According to Hindu Law and according to the interpretation of the Hindu Law, given by British Indian Courts, lepers suffering from a malady of a very virulent type, of a sanious or ulcerous type—have been excluded from inheritance, that is to say, persons in respect of whom people would feel a sort of repugnance in associating, and close association with whom is also forbidden by hygienic rules. Now, let us take the case of such a man. He is a person in respect of whom propagation of the species is not desirable. To make him the owner of property is in the first place to draw people into marriage, into union with him, at least in the incipient stages of the disease, and thereby enable him to transmit his disease to others. Apart from that the leper may have his intellect also warped by his abnormal condition resulting from the disease itself. In such cases it is dangerous to invest him with rights over property to the detriment of the man who follows him in the order of succession. Such is the case with the born deaf and dumb. Only in respect of eunuchs and persons devoid of limbs, it can be questioned why when they have got the mentality to enjoy property we should refuse them their inheritance. I submit, Sir, that is a point which has to be considered but only by the Hindu community itself. The rule also means that where there is a defect in the limb (not where a man has lost a limb in battle), a defect which can be handed down to posterity, it should have operation. Then, Sir, we must consider that only in such cases, where the man who is to be excluded, has got his mind in order, his brains in

[Mr. J. N. Mukherjee.]

order and he is capable of acting in a rational manner, that one can sympathise with him if he is deprived of his inheritance, but not in the case of a man who is devoid of all sense of right and wrong, of mind and reason. Therefore in the case of a mad man, how can we say that we have deprived him of a right or a vested right and that we have put him to trouble by excluding him. He cannot think at all that he has a just right or any right at all to property. Therefore, Sir, these are questions which are of very great moment and are even according to modern socialistic points of view, as well, are not to be belittled, that is to say, even according to modern conceptions the individual must yield to the well-being of society as a whole. We all follow these principles more or less, in our daily lives. Some people lay more emphasis on one aspect of the matter, others may lay more emphasis on others. But we all have to acknowledge that there is a higher than mere individualistic consideration involved in the practical solution of these questions. Simply to assert that because a man is a human being in form only, even though he may have no mind, in reality, though he is born blind, and deaf and mute, and in that way he may have no conception of the world itself, that such a man should be vested with dominion over property, is a matter which may seem to be not absolutely clear to many minds. The science of eugenics and sociology are not modern sciences, but old. Therefore, apart from the various questions of Hindu Law which might arise in connection with the present Bill, there is the grave danger to which I have referred, danger which by shaking the very foundations of Hindu Law, threaten to destroy the source of all authority in the Hindu legal system. If we once allow the departure from authority which the Bill proposes to do and allow that the passing fancy of any individual Member of this House is sufficient for setting the machinery of legislation in motion, if the satisfaction of being able to contemplate one's offspring, as it were, be enough for the purposes of the legislator, then, I submit, all stability is jeopardised in regard to matters of legislation. We are, I submit to this House, on the brink of a precipice. We know in whose hands the orthodox community is placed, it may be that by party cliques and various other dubious ways, we may succeed in carrying out certain social ideas of ours through the Assembly and consider ourselves sufficiently requited merely by our success. That, I submit, Sir, ought not to be the attitude of this House with reference to questions of this kind. The Removal of Caste Disabilities Act has been very often paraded in this House, and relied upon as a precedent, but once this precedent is fully established in this House, there will be no end to the process,—to its being repeated *ad infinitum*. I submit that even there in connection with that Act of 1850, Government proceeded with some caution. Of course even from before the commencement of the British administration in this country, the administrators were very careful not to interfere with the social laws and rules of the people of this country. Even before Warren Hastings became Governor of Bengal and took a leading part in the administration of the country, the principle of non-interference in social or religious matters came to be observed, and now we have begun to openly come forward and say, “in spite of anything to the contrary in the Hindu Law,” we want things to be done according to our own personal liking. The very mover of the Bill, who thought that insane persons should never be deprived of their rights, under any circumstances, came round to the opinion that insane persons, if born insane, may be kept out of the rule of exclusion. Sir, it is perhaps well

within the experience of the Honourable the President that the Chairmen of Committees in the House of Lords, and the Chairman of Ways and Means in the House of Commons keep a strict check over the proceedings when Bills introduced by private individuals are attempted to be promoted. They are looked upon with jealousy. There is examination, argument by counsel and all that sort of thing, in respect of these private Bills, and very often, when objections are made, they are allowed and a private Bill is sometimes removed from the class assigned to them by the introducer and placed in the other class, that is in the class of public Bills, and the initiation of the matter of the Bill is then left in the hands of Government which acts in the matter as a disinterested party. There is then no further private end in view, but only the point of view of the public. Sir, in the present case very well written and well considered articles in the Madras Presidency itself go to show the dangers which lie in piecemeal legislation. The Hindu Law of Inheritance, I may repeat, must be taken up in its totality. The dislocation in the order of inheritance does not merely mean that one brings in a certain person from one place and puts him in another ; it means, at the same time, a consequential denial of right to others in the whole line of succession. This process of piecemeal legislation, and shuffling of heirs may be repeated times without number. Therefore in the present instance, in the matter of the present Bill, upon the materials which are now before the House, and in view of the consideration which the Select Committee has given to it, or rather has not been able to give to it, there are weighty reasons against it. Sir, I oppose the consideration of this Bill.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muhamadan) : Sir, the Honourable Mr. Rangachariar seems to have taken some objection to the participation of non-Hindu Members. I am sorry. Does he mean to say that, even if a cause be just, a non-Hindu should not take up the cause ? Does he suggest that ? (*Rao Bahadur T. Rangachariar* : "Yes.") Did he himself not take part in the Wakf Bill ? It is simply because this is his case, that he takes objection. I hope he will excuse me for saying so. Now, why Muhammadans and other non-Hindus supported the Honourable Mover of the Bill was simply because they felt and I say that it was a just cause. I therefore appeal to all my Hindu friends asking them to advance with the times. They should do away with meaningless customs and advance with the times. Swaraj is coming sooner or later ; it is only a question of time. It has come from the mouth of the Sovereign of Great Britain and it is bound to come. If you remain behind at present there will be a hard struggle afterwards. Hitherto we have been simply as minors in the Court of Wards. The time will come when we will have to take care of ourselves, and we must not therefore lag behind, but take time by the forelock : and as a friend, and as an Indian, I say go forward. No doubt I do not know Hindu Law, but I understand sufficiently what it means. It says :

"Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of any disease, deformity, or physical or mental defect."

Do you mean to say that simply because a man is lame you would exclude him from inheritance ? (*Mr. T. V. Seshagiri Ayyar* : "That is

the law they want.'') I give credit to the Honourable Mover of the Bill for his earnest desire to remove hindrances to development and I give the Bill my whole-hearted support—paying the Honourable Mover my tribute of respect for his courage and patriotism.

Mr. T. V. Seshagiri Ayyar: Sir, may I say a word? So many things have been said about my desire to snatch a personal victory that I do not think I should take up the time of the House by replying to them. I believe I am known fairly well to Members of this House, both Europeans, Muhammadans and Hindus, and I believe they know that I am not in the habit of snatching victories, or of placing undue importance upon personal considerations. Therefore, Sir, I shall say nothing upon that part of the subject. A red herring was sought to be drawn by appealing to Europeans and Mussalmans not to vote for this measure. Now, Sir, I wish to say a word about this. I have been myself a judge and as a judge I have decided cases between Muhammadans and Muhammadans and between Europeans and Europeans, and to-day in the Privy Council a Muhammadan Judge decides questions of Hindu Law, and you will find throughout the length and breadth of this country Europeans engaged in deciding cases between Hindus and Muhammadans and between Europeans and Hindus and so on. Can there be a disqualification simply because a man happens to be a Mussalman or European; would he not give his unbiassed opinion as a juror after hearing the arguments on both sides and decide whether I am in the right or whether the Members who oppose me are in the right? That is the question which I wish to put before the House; and as was pointed out by Mr. Sarfaraz Hussain, when we had to deal with a Bill affecting a Muhammadan question we Hindus took part in the debate

Rao Bahadur T. Rangachariar: We did not go against the Muhammadan view in that matter.

Mr. T. V. Seshagiri Ayyar: What is the Muhammadan view and what is the Hindu view is a matter very difficult for me to understand. Sir, under these circumstances I hope my European friends—I shall not call them friends because it might be misunderstood—the European Members of this Assembly will not be led away by the fact that A brought in the Bill and B opposed it; I ask them to give their impartial judgment, not because I have moved, or because somebody has opposed it; I ask them to consider deeply the whole matter and the reasons given, and say whether my object in bringing forward this measure is a humane one or not, and then to give their votes.

Sir, it has been said that the Hindu law is of divine origin and therefore it is sacrilegious for any man to legislate. I do not think I sufficiently clearly placed one aspect of this question, before the House. Upon this very same text there are catalogued about half a dozen disqualifications. As regards the foremost of them, that is to say, conversion from caste, the Government, 70 years ago, brought forward a Bill; it enacted that mere conversion from one religion to another, from Hinduism to Muhammadanism or Hinduism to Christianity, shall not be a bar for inheritance. Therefore 70 years ago, by Act XXI of 1850, the Government of the day thought that this portion of the law was inhuman and one which ought not to be acceded to; and they brought in a Bill and that is the law to this day. Then, Sir, there is a Bill regarding the re-marriage of Hindu widows; that

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has been law all these years. Does anybody seriously say that this is in accordance with Hindu law? It was made law; and that law was passed because . . .

Mr. J. N. Mukherjee: May I say that there is a text of Hindu law supporting such marriages—*Parasara Samhita*?

Mr. T. V. Seshagiri Ayyar: I think my Honourable friend in his anxiety to support his view is forgetting the whole trend of Hindu law. If he had read the pamphlets upon that subject, if he had read the various writers, he will find that, though Parasara might support that view, a large number of other writers, among whom for example there is Manu whom he is so anxious to support, have declared that re-marriage should not be allowed, and still a law was passed by the Legislature; that is the law to-day; under those circumstances can it be honestly said, can it be seriously said that it is not open to bring forward measures of this kind in this Legislature? Can it be honestly said that Europeans and Muhammadans are not entitled to take part in the discussion? I hope my Honourable friends will not be led away by anything that has been said upon this matter. If I may say so, these Members are the better judges in the matter; we are biassed one way or the other; they are not; they can be expected to be impartial and after hearing the various views to give their considered judgment upon a matter of this description, they will not be in the least affected by considerations which affect us, personal considerations, party considerations and what are called orthodox considerations; but the others would on the merits of the question come to a conclusion, and I ask them to give their verdict not upon the fact that A or B proposes it or C or D opposes it, but upon the fact whether it is a good law, whether it is desirable that it should be discussed and carried through. Sir, there was one question put by Mr. Mukundaraja Ayyangar, to which I must refer. He said that this is a matter which ought to be considered in the local Council. Sir, nobody would have been happier if it were possible to have this matter disposed of in the local Council. If the Honourable the Home Member will remember, when Malabar Act came before this House, even at the risk of being considered irrelevant, I suggested that that portion of the India Council's Act should be removed which makes it impossible for questions of this nature being considered in the local Councils; and I said that he would be conferring a great boon if he acceded to my request. My object was this. I would have then ceased to inflict myself upon this House, I would have taken my work to a place where my character and antecedents are known, and where the insinuations which have been made in this Assembly would not have been made; seriously I would have been most happy if the Honourable the Home Member had acceded to my request to have that portion of the India Council's Act removed. He has not done it yet. Unfortunately what is the position now, Sir? Some years ago when there was a decision of the Privy Council relating to Hindu law, I had the temerity when I first became a Member of the Madras Legislative Council to introduce a Bill which would do away with the interpretation placed upon it by the Judicial Committee: that related to the gift to unborn persons, and I carried the measure through although there was some opposition. Nobody in Madras ever said anything against my character, either that I was anxious to snatch a victory or to do anything which would show that I was doing the thing only for the purpose of personal popularity. That Act was passed

there. Well, what happened after that? It was held that that Act had no application whatsoever to the presidency town because of the existence of a section in the India Council's Act. As soon as I came to Delhi, the very first thing that I had to do was to try and make that Act extend to the presidency town. That is the position. It is impossible to pass an Act of this nature in Madras because it cannot apply to the presidency towns. If this is removed, there will be no difficulty. I do not like to take the time of the House any further; I was getting a little excited in consequence of certain reflections made against me personally. I do not want to make the same kind of reflections on those who have spoken in this matter. I daresay they are actuated by the best of motives and as pillars of orthodoxy they are anxious that nothing should be done which would in the least affect orthodox principles, but they must remember these were challenged times without number in the local Councils. It has been done in various local Legislatures, and I myself was instrumental in having it challenged in Madras. Under these circumstances, I would ask my European and Muhammadan friends to give their verdict upon the merits of the case and not to be influenced by anything that has been said just now.

Mr. President: The question is that the Bill be taken into consideration. The motion was adopted.

Mr. President: Clause 2.

Mr. M. G. M. Ayyangar: Sir, in the amendment standing against my name on the paper, there seems to be some mistake and therefore instead of the amendment as it is on the paper, if I have your permission, Sir, I would move the amendment, namely:

"That instead of the word 'and' between the words 'who is' and the words 'has been' in clause 2 of the Bill, the words 'at the time the succession opens or partition is effected or' be substituted."

Clause 2 of the Bill after the amendment I desire to make would read thus:

"Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu law other than a person who is at the time when the succession opens or partition is effected or has been from birth a lunatic, etc."

Sir, the object of this amendment is to place the disqualified heirs whether the disqualification is congenital or one supervening on the same footing, I do not see why a person whose disqualification is congenital alone should be excluded but one who is disqualified subsequently and continues to be disqualified when the succession opens or partition is effected should not be excluded. If there is reason, sentimental or otherwise, for the exclusion in the one case, I submit there is reason for the exclusion in the other case also.

The existing law, so far as insanity is concerned is clear that it need not be congenital to exclude a person. I would refer only to the recent case of the Madras High Court in 43, Madras 464 wherein our Honourable friend, Mr. Seshagiri Ayyar, when he was a Judge, says after stating that Courts here and the Judicial Committee have regarded the injunction of law relating to exclusion as a living principle. If the exclusion is not based on original sin or subsequent incapacity to offer oblations and the like, the suggestion that it was due to a belief in the inability of the heir to manage temporal affairs appears more plausible. Very likely the rule is an outcome of a hazy notion that the property should be preserved for

[Mr. M. G. M. Ayyangar.]

the disqualified person by those who are related to him " and finally he decides that insanity need not be congenital. If that be so, I ask, Sir, why should there be this change in the law? I submit, Sir, no valid reasons have been assigned for the change that is now sought to be introduced. I therefore, Sir, move my amendment.

Mr. T. V. Seshagiri Ayyar: Sir, may I say a word? The principles of Hindu law in this point are this. There are two principles—one is incapacity to manage, and the other is that, if a man has some defects, it must be taken that he must have committed some serious sin in a previous birth and that is why he is born like that. If the House will read the text of Manu, the idea running through that text will be found to be that there has been some sin in a previous birth and as a result of that sin he has been born in a particular manner. Sir, if my learned friend's arguments are taken seriously, what would be the position? Suppose a man commits a sin late in life, which makes it impossible for him to perform certain religious ceremonies, can it seriously be contended that he must be divested of his property? It is really, Sir, for the purpose of showing that congenital defects show that their possessor has not been good or honest in his previous birth, that this disqualification text finds a place in the Smriti, I do not think any civilised person in these days would consider that such a disqualification should be allowed to exist. Supposing a man drinks or commits other sins, can you say that this man is so sinful that he should not have the property? I think the Hindu law has for some reason or other imposed disqualification only in cases where there was congenital defect. And I do not think my Honourable friend is right in saying that that safeguard should be ignored. I think it would be inconsistent with the tenor of the Bill if we were to insert the words which he wants to insert.

The motion was negatived.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadian Rural): Sir, I move the amendment which stands in my name:

"At the end of clause 2 add the following:

'Provided that during the continuance of any such disqualification, such person shall neither claim partition of joint family property nor transfer any property except for legal necessity.'

I am the last person who would consent to any alteration in the Hindu law, and like my Honourable Mussalman friends who would never like or recommend any alteration in their Holy Koran. At this moment I might be allowed to make one observation with regard to the remarks which fell from the mouth of my Honourable friend, Khan Bahadur Sarfaraz Hussain Khan, and also the Mover of this Bill to the effect that persons who belong to other castes, namely, Muhammadans and Christians, have a right to legislate for the Hindus. Now, I will say—they will excuse me for saying so—that we Hindus regard the practice of circumcision as barbarous. But would the Muhammadans like us to legislate on that point? Certainly not. I submit that there should be a convention in this Honourable House and elsewhere that, when a measure affects any particular caste or community, that caste or community only should decide and not others. Otherwise, what I have said just now would be the result and would create unpleasantness, both inside and outside, and I say with all the emphasis at my command that a similar unpleasantness has already been created by

my Honourable friends, Christians and Mussalmans, voting and supporting Dr. Gour's Bill. I do not want that to be repeated.

Khan Bahadur Sayid Muhammad Ismail (Patna and Chota Nagpur *cum* Orissa: Muhammadan): May I rise to a point of personal explanation, Sir? I think the Honourable Member has entirely misunderstood the attitude of some of the Muhammadan Members when we voted for Dr. Gour's Civil Marriage Bill. We did not vote because the Muhammadans were excluded from the scope of that Bill, but considering it a piece of permissive legislation, I further submit that even if the Muhammadans had been included in the scope of the Bill we would have probably adopted almost the same attitude.

Lala Girdharilal Agarwal: One of the Honourable Members has declared his own intention. I do not know how far it is assented to. However, I leave this question aside. What I submit is this, that this is our own affair. It is the affair of the Hindus and I appeal to my Honourable friends although they have got the legal right to give votes on all measures which come before this House, yet, as a matter of convention, as a matter of principle, to refrain in future from supporting any measure which might be considered by the orthodox Hindus as subversive of Hindu law in the same way in which they would themselves not like the Hindus to legislate for them on any matters which might be subversive of their own laws. With these few words, Sir, I want to move my amendment which has already been read out. One word more, Sir. Under the Hindu law, as strictly interpreted, persons who are suffering from a disqualification are entitled to maintenance. Now, it has been represented to me by some Honourable Members that we should be more pitiful and more merciful towards the disqualified persons, and it is only as a matter of concession that I have agreed to the Bill as it has come out of the Select Committee, on the condition that a provision like this is added so that the disqualified persons may have the entire profits of the property throughout his life but may not have any right to claim partition of any joint family property.

Mr. President: Amendment moved:

"That at the end of clause 2 add the following:

'Provided that during the continuance of any such disqualification, such person shall neither claim partition of joint family property nor transfer any property except for legal necessity'."

Mr. P. E. Percival (Bombay: Nominated Official): Sir, I rise to discuss the amendment from the point of view of drafting. I do not understand how this clause is to be read with the previous one. Clause 2 runs:

"Notwithstanding any rule of Hindu Law" and so forth, "no person" except lunatics and so forth, "shall be excluded." Then my Honourable friend adds "Provided that during the continuance of such disqualification." I do not see how disqualification comes in in connection with the previous sentence. And then my friend goes on to say: "Such person shall neither claim partition, etc." It is not clear who "such person" is, and in particular, I do not see how "such disqualification" can come in and how it can be read with the previous clause 2.

Mr. President: The question is that that amendment be made.

The motion was negatived.

Clauses 2 and 3 were added to the Bill.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I gave notice of a similar amendment to those of my friends Mr. Raju and Mr. Neogy, but on reconsideration I have amended the same for greater precision, and my amendment will read thus. Clause 1 (2) reads thus:

"It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas."

To that I move a further sub-clause (3) be added:

"(3) It shall not apply to any person governed by the Dayabhaga school of Hindu Law."

Now, this makes the object I have in view quite clear and precise. My reason for moving this amendment is that the law of coparcenery does not apply to those who are governed by the Dayabhaga school of Hindu Law and they can dispose of their property any way they like.

Mr. T. V. Seshagiri Ayyar: I accept the amendment.

The amendment was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble to the Bill were added.

Mr. T. V. Seshagiri Ayyar: I move that the Bill, as amended, be passed.

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): I have no business in rising to stand and speak on this motion, but I rise simply to express my regret that if we have offended in any way by our voting on the matter of circulation, I have only this to say that the question on which we did vote was that the Bill be recirculated for public opinion, and we did it not on the ground that it affected the rights of anybody or anything of the kind. If the question had been about any particular section of this Bill being passed or not, we should have refrained from voting, but the question was whether to put the whole machinery of the Legislative Assembly into action for re-circulating the Bill, and if we have offended any section of the Assembly here, we are sorry for it and we leave it to the Hindu Members of the Assembly to decide whether this Bill should be passed or not.

The motion that the Bill, as amended, be passed was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 4.)

Maulvi Abul Kasem (Dacca Division: Muhammadan Rural): I move:

"That the Report of the Select Committee on the Bill further to amend the Code of Criminal Procedure, 1898 (amendment of section 4), be taken into consideration."

The motion was adopted.

Clauses 1, 2, the Title and the Preamble to the Bill were added.

Maulvi Abul Kasem: I now move that the Bill, as amended, be passed.

The motion was adopted.

THE HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): I hope this Bill will have an easier passage in this House, than the previous one, because I find my friend Mr. Rangachariar who is very orthodox is in favour of this motion. Very orthodox people have been from the earliest days of opinion that to make the son's daughters, daughter's daughters and the man's own sister to come after seven degrees of agnate relationship is an anachronism that ought not to be tolerated any further. I move therefore:

"That the Report of the Select Committee on the Bill to amend the Hindu Law of Inheritance in certain particulars, and to remove certain doubts, be taken into consideration."

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): I oppose this motion. My submission is that this is a matter which will have very far-reaching consequences and at the fag end of the session, when the House is very thin and when a large number of Honourable Members have left the station and some of them are packing their luggage and phoning to the Station Master to reserve their berths I submit that it would not be proper for us in the absence of our other Honourable colleagues to consider this motion and pass it. On these grounds I would very earnestly and respectfully appeal to my Honourable friend and colleague not to press this Bill for consideration this afternoon.

Mr. President: The question is that the Report of the Select Committee be taken into consideration.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): I cannot record a silent vote in a matter of this kind and I have a motion that the Bill be re-circulated for obtaining opinion thereon. My reasons are practically the same as I urged in connection with the other Bill of my Honourable friend, Mr. Seshagiri Ayyar, but in a matter of succession as I have already submitted to the House the whole thing ought to be considered in its totality. Honourable Members will see in the instance under consideration now the Honourable the Mover of the Bill has followed the inclination of his own mind. First of all he has gone down to the brother's grandson, that is to say, in lineal succession. His case is not based upon the ground of natural affection and as the Bill includes as it does only cases where there has been a separation and the brother is living apart, one cannot imagine how the brother's grandson should have a preferential claim to the grandson's daughter. He has stopped with son's daughter but excluded grandson's daughter. Now in a Hindu family the picture is very common of a person having the daughter of a grandson. She is brought up, she is loved and so forth, but if we are to follow the bent of our minds we exclude the grandson's daughter. Similarly other instances may be found where a brother lives in Bombay and he has no connection with his other brother. Why should his family or progeny have preference over the family of his sister, so that as Honourable Members will see, the whole question hinges upon personal likes and dislikes and the impulse of the moment. Nothing else. On the impulse of the moment we are going to alter the law of succession and under circumstances over which the Hindu public affected will have no opportunity of expressing their views. Sir, the matter stands thus. It is difficult to make a constructive proposal unless and until the whole country has been appealed to, and the opinions of men who are entitled to pronounce an opinion on the subject are in the first place obtained. Now, it is correct to say that it is impossible to obtain

[Mr. J. N. Mukherjee.]

unanimity on a subject like this, and it is owing to this fact that the question of succession was left to the customs and usages of Hindu law. Of course I for one should think that if there is a sister living with the propositus that sister should have preference over remoter relations. But he has not followed that principle. Again, Sir, let us take the case of the father's sister. The father's sister has been completely ignored. (Mr. T. V. Seshagiri Ayyar: "No.") Yes, in this Bill. At least she occupies the position which the Mitakshara law assigns to her. But the father's sister is very often the presiding person in a Hindu family; she looks after the household, and there may be considerable personal attachment between the propositus and the father's sister. So that if these questions were considered in detail it will appear that the rule of succession which has been now placed before the House depends very largely upon accident, the accident of the persons or friends who formed the Select Committee and their personal views. (Mr. T. V. Seshagiri Ayyar: "That is not fair.") Honourable Members will see that there was no discussion on the original motion to refer this Bill to Select Committee. I stood up three times when this Bill was going to be referred to Select Committee, and if Honourable Members will refer to the proceedings of the Legislative Assembly they will find that there was not a single speech made on this Bill. That is how, I submit, social legislation of such far-reaching consequences is rushed through the House and made dependent purely upon accident. I deprecate that, Sir, to the fullest extent and in matters of this kind that ought not to be the case. At any rate, if there is going to be a change in the Hindu law, I think the system which has been advocated by Government is the best, namely, a Commission, where we can have represented the heads of different sects and people who are going to be affected by the Bill. First let us get a working basis on their opinions and then start the work. As I have submitted to the House, it is impossible to arrive at unanimity in a matter of this kind; but at any rate we can build something upon the resultant public opinion if I may put it that way. Now that method has been given the go-by in the present case and the House has been driven to the position that it must accept the Bill as it stands, for it is impossible for individual Members to suggest amendments because they have not consulted the country and they do not know how any proposition put forward by them will affect the country at large. At any rate it will be seen that great difficulty exists. Here we have a small class of people excluded from inheritance who are suffering from certain disease; but here the whole law of succession is affected.

Then, Sir, another submission which I should like to make to the House is that we now have the power of making wills. The Bill applies to separated property, so that the question of power to make wills will not arise. In this respect my submission to the House is that the modern world is different from the ancient world, because now if a person desires to leave his property to a particular person he can leave it to him or her by will, especially in cases of this kind where we are not concerned with joint property. Therefore, Sir, I submit it is difficult to say—unless one is to suppose that any change sought to be brought about in the law is good for the country at large. Unless that be the position that the House wishes to occupy, I submit that the procedure which the Honourable the Law Member, Dr. Sapru, as he then was, suggested to the House in connection with the question of codification was the right one, *viz.*, that there should be a working basis like that—that would in my opinion have

been a more satisfactory manner of dealing with the subject, and therefore I submit, Sir, in the Bill as it is, considering the question piecemeal and apart from the dangers of following the Hindu law, the Muhammadan law, the Christian law, a convention might be introduced which would have the most disastrous effects, and therefore I submit that this Bill is of far greater importance than the other one. It assumes that some particular thing in Hindu law must be considered as barbarous, but that is not the only point here,—there are other weighty considerations which affect a Bill of this kind, and I therefore oppose the consideration of the Bill.

Mr. President: Did the Honourable Member move his motion?

Mr. J. N. Mukherjee: I move, Sir:

“That the Bill be re-circulated for the purpose of eliciting opinion thereon.”

Mr. President: Amendment moved:

“That the Bill be re-circulated for the purpose of eliciting opinion thereon.”

Mr. T. V. Seshagiri Ayyar: Sir, if my Honourable friend, Mr. Mukherjee, had posted himself in the first principles of Hindu law, if he felt anxious to do justice rather than sling mud at persons who want to make changes in Hindu law, he would find that I am advocating in this Bill principles which have long been accepted as salutary. For example, Sir, I want to bring to the notice of the Members of this House some first principles on which Hindu law is administered. As regards *bandhus*, there are three classes,—what are called one's *atma bandhus*, that is one's own descendants, and then the *pitri bandhus*, that is, the father's descendants, and then the *matri bandhus*, that is, the mother's descendants. The rule of succession is,—first of all, one's *atma bandhus* should come in; secondly, the *pitri bandhus*, or the father's descendants, and then the *matri bandhus*, or the mother's descendants; and then there is a second principle, which every Hindu lawyer knows, that the class of *bandhus* should not go beyond three degrees. That is the answer to the first of the conundrums which my friend has just now been propounding here. The grandson's daughter is more than three degrees removed, and therefore she does not come under the heading of *atma bandhus*. There can only be three degrees. Now, I take the son's daughter and the daughter's daughter, because they come within the three degrees; they must be given preference before the sister because she is the father's daughter. The sister being the father's daughter, whereas the son's daughter is one's own *atma bandhus*, the latter goes before the former. That is the principle upon which I base my order of succession, and that is the principle which commended itself to such a great lawyer as Sir V. Bashyam Ayyangar, and such an orthodox Hindu Judge as Sir T. Muthuswami Ayyar. I wanted to say this much because I do want this House to understand that I have framed the Bill on my own whim and fancy and not based it on well-known principles.

Mr. President: The original question was:

“That the Report of the Select Committee on the Bill to amend the Hindu Law of Inheritance in certain particulars, and to remove certain doubts, be taken into consideration.”

Since which an amendment has been moved:

“That the Bill be re-circulated for the purpose of eliciting opinion thereon.”

The question I have to put is:

“That the Bill be re-circulated for the purpose of eliciting opinion thereon.”

The Assembly divided :

AYES—22.

Agarwala, Lala Girdharilal.
Ahmed, Mr. K.
Ayyangar, Mr. M. G. M.
Bhargava, Pandit J. L.
Bradley-Birt, Mr. F. B.
Hussanally, Mr. W. M.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Neogy, Mr. K. C.

Pyari Lal, Mr.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Singh, Babu B. P.
Sinha, Babu Ambica Prasad.
Sohan Lal, Mr. Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Tulshan, Mr. Sheopershad.
Wajihuddin, Haji.
Webb, Sir Montagu.

NOES—31.

Abdul Majid, Sheikh.
Abdul Rahim Khan, Mr.
Abul Rahman, Munshi.
Achariyar, Rao Bahadur P. T.
Srinivasa.
Ahmed Baksh, Mr.
Akram Hussain, Prince A. M. M.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Basu, Mr. J. N.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Dalal, Sardar B. A.
Ghulam Sarwar Khan, Chaudhuri.

Gidney, Lieut.-Col. H. A. J.
Gulab Singh, Sardar.
Haigh, Mr. P. B.
Ikramullah Khan, Raja Mohd.
Jamnadas Dwarkadas, Mr.
Jatkar, Mr. B. H. R.
Latthe, Mr. A. B.
Man Singh, Bhai.
Mitter, Mr. K. N.
Mudaliar, Mr. S.
Percival, Mr. P. E.
Reddi, Mr. M. K.
Sams, Mr. H. A.
Sarfaraz Hussain Khan, Mr.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.

The motion was negatived.

Mr. President: The question is :

“ That the Bill be taken into consideration.”

The motion was adopted.

Mr. President: Clause 2.

Mr. M. G. M. Ayyangar (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural): Sir, I move :

“ That in clause 2(c) after the word ‘ sister ’ the words ‘ during her lifetime ’ be inserted.”

I have taken this amendment from the Bill which originated from the late Sir V. Bashyam Ayyangar, called “ A Bill to provide for the succession of a sister and certain other relatives under the Hindu Law.” In that Bill the sister's son is defined to include a son by adoption, provided such adoption was made with the consent of the sister during her life time. The safeguard that the adoption should have been made during the lifetime of the sister was provided to remove any difficulty if any dispute should arise. After the death of the sister, there may be cases in which misunderstandings arise between a man and his sister's husband. If the sister should have died without a son, it is quite possible that the sister's husband may, to spite his wife's brother and to harass him, make an adoption setting up a false consent from the deceased sister. The sister having died, it will be difficult to disprove consent. But if the adoption itself should be made during the lifetime of the sister, this difficulty will not arise. When you are making the adopted son of a sister, or rather of the sister's husband as an

heir, I submit the safeguard suggested by me that the adoption should have been made during the lifetime of the sister is absolutely necessary.

Mr. President: Amendment moved:

"In clause 2(c) after the word 'sister' the words 'during her lifetime,' be inserted."

The motion was adopted.

Mr. President: The question is that clause 2, as amended, stand part of the Bill.

The motion was adopted.

Mr. President: The question is that clause 3, as amended by the Select Committee, stand part of the Bill.

The motion was adopted.

Mr. M. G. M. Ayyangar: Sir, I move that:

"To clause 4 the following new sub-clause be added:

'(c) enable more than one of several son's daughters, daughter's daughters, sister or sister's sons to succeed by inheritance to the estate of a deceased Hindu male which by a customary or other rule of succession descends to a single heir'."

This amendment also I have got entirely from Sir V. Bashyam Ayyangar's Bill. This amendment is to provide for cases in which, according to the custom in some families, and in some zemindaris, properties descend only to a single individual. There are some zemindaris which are impartible properties under the Madras Impartible Estates Act. In the case of these zemindaris and families, it is only the eldest of the heirs that succeeds. The others have no share in the property. The Bill as it is drafted does not provide for such cases, but would allow more than one of the heirs now provided by this Bill to inherit such impartible zemindaris with the result that they may be partitioned between them. This is exactly what the Impartible Estates Act provides against. It is only to remedy this defect that my amendment desires that in the case in which by a customary or other rule of succession property descends only to a single heir, no more than one of the heirs now brought by the Bill shall succeed. This amendment also I have borrowed from the late Sir V. Bashyam Ayyangar's Bill.

Mr. T. V. Seshagiri Ayyar: May I say a word, Sir? I am not opposed to the amendment, but I think it is unnecessary to make it clearer, I would suggest that the language be different, I would make the clause read "affect any special law, and any family or local custom having the force of law." That would make it all right. In my section 4 I intended to provide for the inheritance of heirs to zemindaris. Generally as regards this class of heirs, the Privy Council have laid down that it is the family law that applies, therefore they should be excluded from the operation of the ordinary law; but if my friend wants that the provisions of the Impartible Estates Act should be saved, the proper way of doing it would be by inserting the words in clause (a)—"affect any special and/or Local law and any family or local custom having the force of law."

Mr. M. G. M. Ayyangar: My amendment would read much better than that.

Mr. T. V. Seshagiri Ayyar: I have no objection to the principle being extended, but I believe that I have provided for it in clause (a). I believe that the words I have suggested would make it all right. But I have no objection to the amendment, Sir.

The amendment was adopted.

Clause 4, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble, as amended by the Select Committee, were added.

Mr. T. V. Seshagiri Ayyar: Sir, I move that the Bill, as amended, be passed into law.

The motion was adopted.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock. Mr. President was in the Chair.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadian Rural): Sir, I beg to move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Bhai Man Singh, Sardar Gajjan Singh, Chaudhri Shahab-ud-Din, Rao Bahadur T. Rangachariar, Mr. B. Venkatapatiraju, Maulvi Abul Kasem, and myself."

Sir, my Bill is a very short one and I have spoken more than once about it in this House and I don't think I need say anything more than that it is to the effect that the privilege of appearing without a vakalatnama or power-of-attorney which is at present enjoyed by Barristers and Advocates only may be extended to Vakils.

The motion was adopted.

THE CHARITABLE AND RELIGIOUS TRUSTS (AMENDMENT) BILL.

Mr. M. G. M. Ayyangar (Madura and Ramnad cum Tinnevely: Non-Muhammadian Rural): Sir, I beg to move:

"That the Bill to amend the Charitable and Religious Trusts Act, 1920, be taken into consideration."

Honourable Members will notice that this is a very small and non-contentious measure. The object of Act XIV of 1920, the Religious and Charitable

Trusts Act, was to provide for a speedy and cheap remedy by which the assistance of the Court may be had both by the trustees and by the persons interested in the trust. The trustees may seek the assistance of the Court for advice in matters connected with the trust, and the persons interested in the trust may seek the assistance of the Court for a direction to the trustee for the rendering of the account of the trust for a period of 3 years. All these may be done under the Act by means of an application to the Court and not by the institution of a suit which means in these days enormous delay and spending of money. It is to avoid this, that the Act XIV of 1920 was passed. But that Act has got one defect, namely, that in the mofussil it gives jurisdiction only to District Courts to entertain and hear applications under the Act. It was only the other day the Honourable the Home Member and the Honourable Mr. Percival told us the large volume of work Sessions, criminal appeals and other miscellaneous work that these District and Sessions Judges have got to do. They scarcely find time to take up civil work and the result is that these applications might be pending for a long time. This was exactly the thing which the original Act wanted to remedy. Honourable Members will see that my short Bill wants that jurisdiction under the Act may also be given to subordinate courts so that such applications may have a speedy disposal at a less cost.

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and Preamble were added to the Bill.

Mr. M. G. M. Ayyangar: Sir, I move that the Bill be passed.

The motion was adopted.

THE ILLEGITIMATE SONS' RIGHTS BILL.

M. K. Reddi Garu (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, I move:

"That the Bill to amend the Hiadu Law of Succession be referred to a Select Committee consisting of the Honourable the Home Member, Mr. A. B. Latthe, Mr. K. C. Neogy, Mr. B. Venkatapatiraju, Mr. T. V. Seshagiri Ayyar, Munshi Iswar Saran, Maulvi Abul Kasem, Mr. N. M. Samarth, and the Mover."

Sir, the Bill has been long before the public and it has been circulated for opinion. We have received about 49 opinions of which nearly 26 are in favour of the Bill, 10 are neutral, and only 13 are against it. I introduced the Bill more as a piece of social legislation, and I leave the legal point of view to the Honourable Members who are better fitted to deal with the legal aspect of the question.

The motion was adopted.

Mr. B. C. Allen (Assam: Nominated Official): May I speak on this motion, Sir?

Mr. President: The motion has just been carried, and has carried with it the Honourable Member's right of speech.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill further to amend the Legal Practitioners Act, 1879, be referred to a Select Committee consisting of the Honourable the Home Member, Rao Bahadur T. Rangachariar, Mr. T. V. Seshagiri Ayyar, Mr. N. M. Samarth, Mr. A. B. Latthe, Sir D. P. Sarvadhikary, Mr. J. Chaudhuri, Mr. K. Ahmed, Mr. J. N. Mukherjee, Maulvi Abul Kasem, Dr. H. S. Gour, Munshi Iswar Saran, Mr. P. P. Ginwala, Chaudhri Shahab-ud-Din, Bhai Man Singh, Rai Sahib Lakshmi Narayan Lal, Rai Bahadur Pandit Jawahar Lal Bhargava, and the Mover."

Sir, this Bill was introduced on the 12th of September in Simla and it forms part of a wider scheme about the formation of an independent Indian Bar. These questions have been before the public for sometime, and the opinions that have been elicited are on the whole favourable to the underlying principle of my Bill. I therefore move this motion.

The motion was adopted.

THE INDIAN EVIDENCE (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Evidence Act, 1872.

The Bill will show that the amendment which I propose to make is a very short one and it is based upon a ruling of the Allahabad High Court. The Evidence Act defines primary and secondary evidence and in the definition of secondary evidence it is laid down that a person who has seen a document can be a competent witness. Now, the Allahabad High Court has ruled in the case of Ghure *versus* Chattrapal Singh, in which I had the honour to appear, that "seen" does not mean a person who has seen as one would look at a toy but a person who has seen with mind's eye. So, I want to substitute the word "read" for the word "seen."

The motion was adopted.

Lala Girdharilal Agarwala: Sir, I beg to introduce the Bill.

THE INDIAN LIMITATION (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): I move for leave to introduce a Bill further to amend the Indian Limitation Act, 1908. The Indian Limitation Act, as it stands at present with respect to section 19, is in accordance with the old English law and not in accordance with the present English law. There are other matters which are always the subject of great discussion. It is for this reason that I beg to move for leave to introduce this Bill in order to correct those errors and that the law may develop. The present doctrine in England as to the theory of acknowledgment is that an acknowledgment to be effectual must amount to a fresh promise to pay. The old theory which has been exploded forms the basis of our present law. Hence I move for leave to introduce this Bill.

The motion was adopted.

Lala Girdharilal Agarwala: I introduce the Bill.

THE PREVENTION OF DEFERRED REBATES BILL.

Mr. T. V. Seshagiri Ayyar (Madras: Nominated Non-Official): The Bill which I seek leave to introduce is one of great importance to the development of the mercantile marine in this country. There are two principal matters mentioned in the Bill. One is as regards what is known as the deferred rebates and the second is as regards the fixing of maximum and minimum rates. As regards the deferred rebates question there is no doubt that it would hamper Indian enterprise if companies of long established reputation offer rebates in the way in which they are doing. There was a Royal Commission appointed in England in 1908 to consider this question, and although it was only by majority that the Commission came to the conclusion that the rebate system should be continued. Recently when the Imperial Shipping Committee had to deal with the subject, though they admitted the evils of the rebate system, they recommended that the shippers should be given the option of an agreement also. I may mention in this connection that the Indian shippers who gave evidence before the Imperial Shipping Committee unanimously—I am speaking of a large number of Europeans also—the Indian shippers unanimously gave evidence to the effect that the rebate system should be done away with; that is my reason for including the subject so far as the first portion of my Bill is concerned. As regards the fixing of maximum and minimum rates, a rate war went on in this country for a long time; I can give instances of one or two companies having come to grief by well-established companies charging a low rate for the time being in order to crush out the Indian enterprise; after the enterprise was thus crushed out they went back to the old rates. The Deck Passengers' Committee recommended that a minimum rate should be fixed, and that is the second subject which I have introduced into this Bill. I may say that my Bill is based largely upon similar enactments in the United States and other countries. Therefore I ask the House to give me leave to introduce the Bill.

Mr. President: The question is:

"That leave be given to introduce a Bill to provide for the prevention of deferred rebates and for the prevention of rate wars and resort to retaliatory or discriminating practices in the Coastal traffic of India."

The motion was adopted.

Mr. T. V. Seshagiri Ayyar: I introduce the Bill, Sir. I now move:

"That the Bill be circulated for the purpose of eliciting opinion thereon."

The Bill has been in the hands of Honourable Members for some time. As a matter of fact, even before they had the Bill as printed, I sent them a copy and I sent a letter to them explaining the reasons why this Bill should be introduced. I move that the Bill be circulated for the purpose of eliciting opinion thereon.

The motion was adopted.

THE INTEREST ACT (AMENDMENT) BILL.

Khan Sahib Maulvi Abdul Quadir (Central Provinces: Nominated Non-Official): Sir, the measure to introduce which I am asking leave of this Honourable House is a very simple and a modest one. It consists of two sections only and refers to the amount of interest recoverable at the date

[Khan Sahib Maulvi Abdul Quadir.]
of the suit. It provides that no creditor of a secured or unsecured loan should be entitled to recover interest in excess of the principal amount due at the date of the suit. I tried to introduce this measure last year in this House but it was a pity that it was thrown out both by the Government and by the Members of this Honourable House and I did not get permission to introduce the same. In spite of my previous failure, I am again trying to introduce it because I have got a real grievance and I am fully conscious that if this grievance is not redressed during the régime of this Honourable House, there is no chance of its being redressed at all or at any rate in the near future. This is the chief reason why I am troubling this Honourable House over again. If the House will kindly bear with me for a few minutes, I will place my grievance before it. The House will be surprised to hear that in Berar and Bombay Presidency if a Hindu creditor sues a non-Hindu debtor to recover say Rs. 1,000 as principal and Rs. 4,000 as interest, he is allowed by the Courts of Justice a decree for Rs. 5,000 in full. But if a non-Hindu creditor sues a Hindu debtor under exactly similar circumstances and conditions the Courts of Justice do not give him a decree against his Hindu debtor for a single pie more than Rs. 2,000. Now, I am not exaggerating facts. I am telling actually what is happening in these provinces every day. My friend, the Honourable Mr. Jatkari, will bear me out in every word I have uttered in this respect. The Honourable Colonel Sir Henry Stanyon and the Honourable Mr. Rustumji Faridoonji, Members of this Honourable House, are also fully aware of the anomalous state of affairs prevailing under the name of the rule of *Damdapat*. Now, I leave it to the Honourable House to judge it for themselves as to whether the grievance I am complaining of is a real one or a creation of my own imagination and whether this Honourable House should or should not redress it. The Provincial Governments cannot do anything in matters of this nature. They cannot amend Dharam Shastras and make the principle of *Damdapat* applicable to Hindus and non-Hindus of the province alike and remove the invidious distinction at present existing. Those who profess Hindu religion are with the exception of a few against such a change being effected. Consequently there is no alternative left open for this Honourable House but to amend the Interest Act as I have ventured to suggest in order to bring justice to those who are subjected to most unjust and iniquitous treatment in the above stated provinces. If the Government and the Members of this Honourable House can remove this iniquity and bring relief to the suffering non-Hindus by any other means than this, so much the better. They are welcome to do so but I am afraid they cannot. The amendment sought for by me is bound, as given in the Statement of Objects and Reasons, to result in immense good to the public in general of the whole of India but if the House thinks otherwise they may make a provision in the amending Act giving option to the Provincial Governments to apply to their respective provinces by notification in their Provincial Gazettes if they considered it beneficial. Otherwise not. The Usurious Loans Act, X of 1918, has been on the Statute Book for the last five years, but it has failed to bring relief to the non-Hindus of Berar and Bombay in this respect. Besides this, the Act gives discretion to the Judge to go through the past account books and readjustments in cases in which he thinks it necessary to do so. Thus the using of this discretion is an arbitrary thing depending upon the choice of the particular judge deciding the case. In *Damdapat* cases no question of using such a discretion arises, but in the majority of other cases they do not use such power at all, while in some cases in which it

is exercised there is no uniformity of decisions, because two different judges under exactly similar circumstances may come to two different conclusions regarding the rate and the amount of interest to be allowed to the creditor.

As a matter of fact, so far as the administration of justice in Berar is concerned it is the duty of the Government of India to see that justice is done equally to all classes of people in the province which they retain in their hands specially for administering better justice. They should not allow one section of the people to suffer at the hands of another section as is done at present. This sort of unequal justice was not meted out to the different sections of his subjects by His Exalted Highness the Nizam before the province was taken over by the Government of India for purposes of better administration.

I appeal to Government Members and to other Members of this House to kindly take a sympathetic view of what I have brought to their notice and allow permission for introducing the Bill instead of throwing it out summarily as they did last year. My Bill is altogether different in principle from the Bill of Mr. Yamin Khan.

With these words, Sir, I move for leave to introduce a Bill to amend the Interest Act, 1839.

Mr. P. B. Haigh (Bombay: Nominated Official): Sir, I desire formally to oppose the motion for leave to introduce this Bill. As the Honourable Member who has brought forward this motion has reminded the House, the Bill was before the House a year ago and leave to introduce it was refused after a speech by the then Home Member. And in the course of the present Session the House has had before it a Bill one of whose provisions was very closely allied to the provision which is contained in the Bill which the Honourable Member now seeks leave to introduce. I do not think it necessary, Sir, therefore, to repeat at length all the arguments which Government have already brought forward against this principle of *Damdapat*. Government still adhere to the view that a prescription of law universally applying, what is known as the rule of *Damdapat*, is not desirable and they are not prepared therefore to accept the motion made by the Honourable Member. Government are still of opinion that a better remedy is provided in Act X of 1918—an Act to give additional powers to courts to deal in certain cases with usurious loans in money or in kind. On the other hand, Sir, I desire to make it quite clear to the House and to the Honourable Member that Government do realize the immense importance of this question and they do not want it to be supposed for a moment that they desire to close the discussion altogether without any further inquiry. Government are prepared to make a full inquiry into the working of Act No. X of 1918 and into the questions raised by the Honourable Member; but instead of supporting his Bill, to which they cannot consistently lend support, they would prefer on the conclusion of their inquiries if the necessity is made apparent, to introduce a Bill of their own. I desire, therefore, to assure the Honourable Member that Government will cause the fullest inquiry to be made into the grievances which he has alleged to exist, and I trust, Sir, that on that assurance the Honourable Member will withdraw this motion and leave it to Government to undertake such further steps in the matter as may appear necessary and advisable on the conclusion of their inquiry.

Mr. W. M. Hussanally: Then, why not allow it to be introduced and circulate it for eliciting opinion?

Khan Sahib Maulvi Abdul Quadir: In view of the assurance given by the Honourable Member, I beg to withdraw my motion.

The motion (for leave to introduce a Bill to amend the Interest Act, 1839) was, by leave of the Assembly, withdrawn.

THE GENERAL CLAUSES (AMENDMENT) BILL.

Lala Girdharilal Agarwala (Agra Division: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the General Clauses Act, 1897.

Sir, the present General Clauses Act, which is Act X of 1897, was passed so many years ago. The earlier Acts were Act I of 1868, and Act I of 1887. Act X of 1897 was passed as a sort of consolidating Act. Now, the present Bill deals only with a very small matter, but yet a very important matter, namely, the definition of the legal term 'sign.' In days gone by when the thumb impression system was unknown to scientists the mere mark of an illiterate person whether made by himself or by any other person was considered sufficient. In the present times we have got an elaborate system of thumb impressions which can be easily identified, and I know in cases in which I had personally had the honour of appearing, even persons have been sentenced to death on the evidence afforded by thumb impressions. But we find neither in our Law of Evidence nor in the General Clauses Act, thumb impressions find a place. The main object of my introducing this present measure is to give legality to thumb impressions. I have taken the opportunity of introducing another matter, namely, to safeguard the signatories who are illiterate or half-literate by the affixation of signature of an attesting witness to any such signature of an illiterate or half-literate person, who should certify that he personally knew the person was signing and that the person so signing understood the contents of the document which he was signing. Of course I am not wedded to the details of the Bill but that is the main idea underlying my Bill. With these few words I move the motion which is put in my name.

Mr. President: The question is that leave be given to introduce a Bill further to amend the General Clauses Act, 1897.

The motion was adopted.

Lala Girdharilal Agarwala: Sir, I introduce the Bill.

Mr. P. B. Haigh: Do I understand, Sir, that it is too late for me to speak on the subject?

Mr. President: Yes, I am afraid it is.

ATTITUDE OF GOVERNMENT RE CERTAIN BILLS INTRODUCED BY NON-OFFICIAL MEMBERS.

The Honourable Sir Malcolm Hailey (Home Member): Sir, I hope you will allow me to make a short statement, necessitated by the unfortunate fact that I was called away from the House on very urgent business and was unable to be present when certain of these measures were brought before it. As the House knows, Members of Government are at times liable to be called away at short notice on work which will not brook delay,

and they are not, therefore, always able in consequence to discharge their duties in the Legislature. This was a case in point, and I think it only therefore proper that I should be allowed to enter a caveat on the part of Government in regard to its attitude with regard to certain of these measures. I do that in order that it may not be assumed that because we made no opposition to some of these measures that we have thereby necessarily assented to them in principle or in detail. If that were assumed, it might cause disappointment to their promoters, and it is in fairness to them that I am bound to say that if it had not been for the unfortunate accident which called me away, I should have opposed certain of these measures. That refers in particular to Lala Girdharilal Agarwala's Bill entered as No. 12 (a) on the list to amend the Code of Civil Procedure, 1908. It refers also in part at all events to No. 16 (b) Mr. Neogy's measure regarding the Legal Practitioners Act. It refers also to Lala Girdharilal Agarwala's Bill, No. 17 (c). It refers to Mr. Seshagiri Ayyar's Bill No. 23 (d). Sir, I only wish to state that when these measures come forward at a later stage, we may in some cases have to oppose them and in other cases to ask for material modifications.

Mr. T. V. Seshagiri Ayyar: May I say a word, Sir, as regards those gentlemen who have introduced Bills including myself? I do not believe that the Honourable the Leader of the House intended to say that we have hurried these Bills through. It is very unfortunate that friends on the Government Benches were unable to be present. I myself was looking to Mr. Innes being here and to say something against my Bill, and when I found that nobody spoke against it, I looked about and it was said that the Bill be carried. I think my friends understand that Government is not committed to anything in connection with these Bills and when the Bill comes up again before this Assembly, the Government could explain their position and consider the whole question afresh. We do not understand that Government have in any way committed themselves.

The Honourable Sir Malcolm Hailey: Sir, I am very much obliged to Mr. Seshagiri Ayyar for what he has said. He understands and appreciates the difficulties which sometimes occur in our work. Mr. Innes, of course, has partaken on this occasion of the same misfortune as myself.

The Assembly then adjourned till Eleven of the Clock on Monday, the 2nd July, 1923.

(a) 12. *Lala Girdharilal Agarwala* to move that the Bill further to amend the Code of Civil Procedure, 1908, be referred to a Select Committee consisting of the Honourable the Home Member, Mr. T. V. Seshagiri Ayyar, Bhai Man Singh, Sardar Gajjan Singh, Chaudhri Shahab-ud-Din, Rao Bahadur T. Rangachariar, Mr. B. Venkatapatiraju, Maulvi Abul Kasem, and the Mover.

(b) 16. *Mr. K. C. Neogy* to move that the Bill further to amend the Legal Practitioners Act, 1879, be referred to a Select Committee consisting of the Honourable the Home Member, Rao Bahadur T. Rangachariar, Mr. T. V. Seshagiri Ayyar, Mr. N. M. Samarth, Mr. A. B. Latthe, Sir D. P. Sarvadhikary, Mr. J. Chaudhuri, Mr. K. Ahmed, Mr. J. N. Mukherjee, Mr. Abul Kasem, Dr. H. S. Gour, Munshi Iswar Saran, Mr. P. P. Ginwala, Chaudhri Shahab-ud-Din, Bhai Man Singh, Rai Sahib Lakshmi Narayan Lal, Rai Bahadur Pandit Jawahar Lal Bhargava, and the Mover.

(c) 17. *Lala Girdharilal Agarwala* to move for leave to introduce a Bill further to amend the Indian Evidence Act, 1872.

(d) 23. *Mr. T. V. Seshagiri Ayyar* to move for leave to introduce a Bill to provide for the prevention of deferred rebates and for the prevention of rate wars and resort to retaliatory or discriminating practices in the Coastal traffic of India.

APPENDICES.

I

RESOLUTION *re* SUPPLY OF FACILITIES TO ENABLE MEMBERS OF LEGISLATURES TO DISCHARGE THEIR PUBLIC DUTIES.

Maulvi Miyan Asjad-ul-lah * (Bhagalpore Division : Muhammadan) :

جناب پریسیڈنٹ و انریبل ہاؤس - میں اپنے انریبل دوست رائے بہادر لچھمی پرشاد سنہا کے ریزولوشن کی تائید کرتا ہوں۔ آپ صاحبان کو معلوم ہے کہ جب کبھی ممبر صاحبان لیجسلیٹو اسمبلی کسی معاملہ کے متعلق معلومات حاصل کرنا چاہتے ہیں تو انکو لوکل افسران سے معلومات حاصل کرنی بہت سخت دشواریوں کا سامنا ہوتا ہے۔ میں خیال کرتا ہوں کہ ہر ممبر اسمبلی کا فرض ہے کہ رعایا اور گورنمنٹ میں جو بدگمانیاں پھیلی ہوئی ہیں انکو حقیقی امکان رفع کرنیکی کوشش کریں۔ لیکن ممبر صاحبان کبھی بھی اس نیک مقصد میں کامیاب نہیں ہو سکتے جب تک مقامی افسران ایسے ممبران کو ہر ممکن طریق سے امداد کر کے الجھے ہوئے معاملات کو سلجھانے میں کوشاں نہ ہوں۔ جب کبھی ملک میں کوئی فتنہ انگیز معاملہ ظہور پزیر ہوتا ہے تو انکے صحیح حالات سوائے افسران گورنمنٹ کسی دوسرے شخص کو معلوم نہیں ہوتے۔ ہر وہ ممبر اسمبلی جو ایسے معاملات میں رعایا اور گورنمنٹ کی خدمات کو انجام دینا چاہے انکو پورے حالات سے واقف ہونا اشد ضروری ہے تاکہ وہ ہر ممکن اعتراض کا شافی جواب دے سکے اور انکا فوری انسداد کر سکے۔ علاوہ بریں ممبران اسمبلی کے لئے یہ نہایت ضروری ہے کہ وہ ہر اس معاملہ کے متعلق پوری پوری معلومات حاصل کریں جو کہ وقتاً فوقتاً اسمبلی میں بحث و تمحیض کے لئے پیش ہوتے ہیں۔ جب کبھی ممبران اسمبلی غریب اور کاٹھکاروں کے فائدہ کا کام گورنمنٹ کی امداد سے کرنا چاہتے ہیں اور سرکاری دفاتر سے کسی قسم کی مدد چاہتے ہیں تو انکو کوئی جراب نہیں دیا جاتا۔ یہ ہمارے نان افیشل ممبران کی حالت ہے۔ ہمارے خیال ناقص میں جب کبھی کوئی ممبر اس قسم کی امداد افسران گورنمنٹ سے طلب کرے تو انکو بلا تاامل ایسی امداد ملنی چاہئے۔ جناب میں یہ اسباب ہیں کہ اس وقت آٹھ رہائے ہند کے دس گورنمنٹ سے انصاف کی پوری امید قائم نہیں ہوئی۔ موجودہ ریزولوشن میں کوئی ایسی بات کا مطالبہ نہیں کیا گیا جسکے منظور کرنی میں ممبر صاحب کو کسی قسم کا تردد ہو۔ گورنمنٹ کو ایسی ریزولوشنوں کی

گز مخالف نہ کرنی چاہیئے - چونکہ ارفیشل ممبران اسمبلی عموماً غیر سرکاری ممبران کی تجاویز کی مخالفت کرتے رہتے ہیں اس لئے وہ عمدہ سے عمدہ ریزولوشن اس ہوس میں پیش کرنیسے گھبراتے ہیں اور سرکاری ممبران کے اس طرز عمل نے غیر سرکاری ممبران کی طبائع میں ایسی افسوس ناک کیفیت پیدا کر دی ہے جو کہ گورنمنٹ و رعایا کے لئے نقصان دہ ہے دوسری پہلو کو جو میں سونچتا ہوں کہ دیہات کے افسران اب نہایت ہی سختی اور نا انصافی سے کام لینا شروع کئے ہیں - ارسکے لئے بھی اب ضروری یہ بات ہونی چاہئے کہ جب نان آفیشل ممبران کو کوئی ایسی بات معلوم ہو جاوے جو کہ خلاف قانون ہی تو اونس وہ لوگ دریافت کر معلوم کر لیں تاکہ قانون کا پورا پورا اثر دیہات اور شہر میں برابر رہا کر۔ کبھی کبھی ہمارے کاشت کار لوگ ہم سے دریافت بھی کرتے ہیں کہ فلاں افسر نے خلاف قانون کے ہر حکم جاری کیا ہے اور بلا تصور مجرم ہمیں ثابت کرتا ہے - اگر ہمیں اختیار تھا تو فوراً اس حاکم سے دریافت کر کے اس سائل کا تشفی کر دیتے - شاید کہ انصاف ہی کو نا انصافی پر مبنی کرتا ہو - بس ایسے ایسے بہت سی باتیں ہیں کہ جس سے بہت سی غلط فہمیاں عام لوگوں میں ہوا کرتے ہیں جن سے اگر اس اسمبلی کے ممبران کو واقفیت ہوتی تو فوراً دور کرسکتے تھے - پس انہی رجوہات کے سبب سے میں آنریبل ممبران ہاؤس کے خدمت میں عرض کرتا ہوں کہ عام رعایا کے بہتری کو پیش نظر رکھتے ہوئے ریزولوشن ہذا کی تائید فرما دیں تاکہ جو جو مشکلات آپ حضرات کو رعایا کے خدمت کرنے میں پیش آتے ہیں وہ دفع ہو جائیں - پس میں انہیں چند لفظوں سے ریزولوشن ہذا کی تائید کرتا ہوں -

ENGLISH TRANSLATION.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division : Muhammadan) : Honourable President and Honourable House, I rise to support the Resolution moved by my Honourable friend, Rai Bahadur Lachhmi Prasad Sinha. It is a well-known fact that whenever Members of the Legislative Assembly require any information, they have to encounter great difficulties in obtaining it through local officers. I think it is the duty of every Member of the Assembly to try his level best to remove the misunderstanding that exists between the people and Government. But we cannot succeed in achieving this noble object unless the local officers render us every possible help for the solution of the difficulties. Whenever an untoward event happens, only the Government officers are in a position to have the correct information regarding it. It is absolutely necessary that the Members of the Assembly, who desire to do their duty to Government and the public, should be in full possession of all necessary facts, so that they may be in a position to meet all possible objections and remove all misunderstandings. Moreover, Members should possess full information regarding every matter that is brought up

from time to time before the Assembly for discussion and deliberation. When any assistance is required from Government officers on any matter which is for the benefit of the poor classes and the cultivators, no satisfactory reply is vouchsafed to our request. This is the plight of the non-official Members. In my humble opinion, therefore, whenever any Member requires such assistance from any Government officer, it should be readily given to him.

Sir, this is the reason why the people of India are not as yet fully convinced of the sense of justice of Government. This Resolution does not contain any demand that might prevent its being accepted by the Honourable the Home Member. Government should never oppose such Resolutions. As official Members generally oppose Resolutions of non-official Members, the latter feel much hesitation in bringing forward many a useful and important proposal before the House. And this attitude of the official Members has greatly discouraged the non-official Members—which is not a happy augury either for Government or for the public.

Another point worth considering is that some village officers have taken to injustice and oppression. It is necessary, therefore, that whenever non-official Members come to know of any such illegal act, they should be empowered to obtain every information from the officers concerned, so that justice may be well administered in towns and villages alike. Sometimes we hear of woeful tales of oppression and high-handedness perpetrated on poor cultivators. Now, had we been well posted in this matter, we could easily have answered any questions after making full inquiries. Perhaps some gross injustice may be averted in this way. Such things create misgivings in the public mind, which the Members of the Assembly can easily remove only if they be in full possession of facts.

It is on these considerations that I commend this Resolution to the Honourable Members of the House who, I fully hope, will support it in view of its usefulness to the public, so that any difficulty they may meet with in properly performing their duties may be removed. With these few words I support this Resolution.

THE MUSSALMAN WAKFS REGISTRATION BILL.

Maulvi Miyan Asjad-ul-lah * (Bhagalpore Division : Muhammadan) :

آنریبل پریسیڈنٹ و آنریبل ممبران ہاؤس - اسلامی اوقاف کے متعلق خدامان اسلام نے بسا اوقات اوقاف کی ناکفہ بہ حالت اور ناجائز مصرف و برد انتظامی کے طرف مسلمانان ہند کو توجہ دلائی ہے لیکن شومی مقدار سے مسلمان بدستور اس اہم معاملے کی طرف متوجہ نہیں ہوئے اور مسئلہ اصلاح اوقاف ہمیشہ ابتدائی حالت میں رہا - کسی اسلامی انجمن یا کانفرنس نے اپنے صوبوں کے اوقاف کو سلک انتظام میں لاکر - انکی آمدنی کو بہترین صرف میں لائیگی کوشش نہیں کی اور نہ ہی وقف کرنیوالی کی اغراض کو مدنظر رکھ کر متولین نے اسکی ہدایات کے مطابق آمدنی وقف کو صرف کیا ہے معزز - محروک بل نے اس معاملہ میں عملی قدم اٹھا کر اپنی ہمدردی کا ثبوت دیا ہے جسکے لئے تمام مسلمانان ہند انکی مشکور ہیں - اور کسی مسلمان کو اصول بل سے کسی قسم کا اختلاف نہیں ہے - اگر ہمارے اوقاف کا انتظام حسب منشاء بل زیر بحث ہو سکے تو ہندوستان کے مسلمانوں کو اپنے تعلیمی و تمدنی انتظامات و اصلاح کے لئے جو مالی مشکلات پیش آتی ہیں وہ بچشم زند دور ہو جائیگی اور ہمارے تمام مذہبی اور تعلیمی اغراض بآسانی پوری ہونگی اور وہ نمایاں قوم کو عظیم الشان تعلیمی اور تمدنی اصلاح کے کامزمین فراہمی سرمایہ کے لئے سرزدی نگرہی پڑے گی اور بہت بڑا سرمایہ ہملوک کے مذہبی کاموں کے واسطے ہاتھ آجائے گا - اور حق بحقدار رسید کا مضمون صادق ہوگا

اس تالییدی تمہید کے بعد میں معزز محروک کی توجہ ان نقایص کی طرف دلانا چاہتا ہوں جنکی وجہ سے ہندوستان کے مسلمانوں کا تعلیم داقتہ گروہ مسودہ ہذا کو اشتباہ کے نظر سے دیکھتا ہے - اور وہ دفعہ سولہ کی رو سے جو اختیارات حاکم ضلع کو دیئے گئے ہیں وہ گورنمنٹ اور مسلمانان ہند کے لئے مضرت رسان خیال کرتا ہے ملک کی موجودہ سیاسی حالت کو مدنظر رکھتے ہوئے میں گورنمنٹ ہند کو ہرگز ہرگز یہ مشورہ نہیں دیسکتا کہ وہ اپنی پرانی غیر جانبدارانہ طریق عمل سے انحراف کر کے مذہبی معاملات میں دخل ہوں اگرچہ میں جانتا ہوں کہ صاحب ضلع کا ڈسٹرکٹ کمیٹی میں موجود ہونا کسی حد تک مفید ہوگا لیکن انکی مداخلت سے جو نقصان عام مسلمانان میں بدگمانی پیدا ہونے سے

ظہور پذیر ہوگا وہ اسقدر زیادہ ہی کہ میں اس کے لئے مسلمانوں کے ذاتی فائدہ کو قربان کر دینے کے
 طیار ہوں میں بخوبی جانتا ہوں کہ مسودہ زیر بحث کا یہ حصہ جس میں
 سرکاری مداخلت کا عنصر موجود ہے مسلمانوں میں علم قبولیت حاصل نہیں کریگا -
 اور مخالف پارٹی کے لئے مزید شورش کا ایک جدید آلہ ثابت ہوگا لہذا
 میری ناقص رائے میں گورنمنٹ عالیہ کو ایسے خالص مذہبی معاملات میں
 اپنے قابل ستائش غیر جانبدارانہ حکمت عملی پر کاربند ہونے والے ایسے امور سے بے تعلق
 رہنا زیادہ مفید ہوگا اگر صوبہ کے گورنمنٹ یا ضلع کے حکام کو مرکزی یا مقامی کمیٹی
 کے ممبروں کی تقریر، ان کی برطرفی کا کوئی اختیار بھی دیا گیا تو آئے دن گورنمنٹ
 اور مسلمانوں میں غیر ضروری جھگڑا کا اندیشہ ہی - ایسی صورت میں مسودہ اصلاح اوقاف
 مفید ہونیکے بجائے گورنمنٹ اور مسلمان دونوں کے لئے نہایت نقصان دہ اور پریشان کن
 ثابت ہوگا - اور گورنمنٹ بہار اینڈ اڑیسہ اور دیگر سرکاری اعلیٰ حکام نے اس خطرہ
 کو بخوبی محسوس کیا ہے لہذا میں امید کرتا ہوں کہ ہمارے آنریبل ممبر صاحب
 اور بالخصوص ارممبر صاحب ارون معزز اعلیٰ افسران کے مشورہ کو مدنظر رکھتے ہوئے
 مناسب ترمیمات تجویز کریں گے - اور حاکم ضلع اور صوبہ کے گورنمنٹ کو جو عملی دقیقین
 اور تکالیف مسودہ کو موجودہ حالت میں پاس کرنے سے ہونگی ان کو بھی مدنظر رکھیں گے -
 اور مسئلہ تقرر کمیٹی صوبہ اور کمیٹی ضلع مسلمانوں پر چھوڑنا چاہیئے تاکہ ہر مسلمان
 اچھے طرح سے سمجھ بوجھ کر اپنا مذہبی آدمیوں کو کمیٹی میں مقرر کریں کیونکہ حاکم ضلع کو
 مذہبی آدمیوں سے ملنے کا کم موقعہ ہاتھ آتا ہے اور ہر مذہبی آدمی کسی حاکم ضلع سے ہرگز
 ملاقات کا خواہش نہیں رکھتا ہے

علامہ ازیں ایک اور امر جو کہ یاد رکھنے کے قابل، ہے یہ ہے کہ عموماً سجادہ
 نشین اور متولی لوگوں نے جائداد ہائے موقوفہ کو کاغذات سرکاری میں یعنی مندرجہ
 حقیقت میں اپنا نام بحیثیت مالک درج کرایا ہوا ہے یعنی بجائے اسکے کہ جمع بندی میں یوں
 اندراج ہو (خانقاہ مالک زیر قبولیت زید) خود زید مالک لکھا گیا ہے کاغذات مال میں
 اسکا صحیح اندراج ہونا چاہیئے تاکہ متولی جائداد موقوفہ کو یا اسکے کسی حصہ کو
 دھن یا بیع نہیں کر سکیں - جیسا کہ آج کل ہزاروں جگہ عمل میں آچکے ہیں -
 دفعہ ۱۳ ضمن (۲) میں رضاحت کے ساتھ صاف طور پر یہ درج ہونا چاہیئے کہ حسابات
 کے فروخت کے آمدنی وقف فنڈ میں جمع ہوگی - اور علامہ گرت سرکاری جو عموماً لوگوں کے
 نظر سے نہیں گذرتا ہے اسلامی اخبارات میں حسابات شایع ہونا چاہیئے - تاکہ عام لوگوں کے

نظر سے گذرے اور عام لوگ کو اپنے رائے ظاہر کرنیکی موقع ملے اور وہ لوگ ہرچہوتہ و ہر بی باتوں کو اخبار میں بطور اطلاع یا نوٹس کے درج کراسکیں تاکہ عام لوگوں کا حق اچھے طرح سے ادا ہو سکے۔

اسکے علاوہ ہم کو مسودہ پڑھنے سے قبل ان مقدس ہستیوں کے احترام اور بزرگی کو محفوظ رکھنے کا پورا پورا انتظام رکھنا چاہیئے ایسا نہ کہ وہ بزرگان دین جنکو لاکھوں مسلمان عزت و احترام کے نظر سے دیکھتے ہوں اور انکو اپنا روحانی و مذہبی پیشوا خیال کرتے ہوں وہ ممبران کمیٹی یا حاکم ضلع کے ماتحت رہے جاویں کوئی مسلمان ایسے مسودہ کو جو کسی مسلم یا غیر مسلم کو ایسے بزرگوں پر کسی قسم کا اختیار دینا ہرگز قبولیت عامہ حاصل نہیں کرسکتا ہی اور مسلمانوں کا وہ خاص طبقہ جو ایسے بزرگوں کے لئے جن وسائل قربان کرنیکے لئے طیار ہی سخت مخالفت ایسے مسودہ کی کریگا۔ مثال کے طور پر میں پیش کرتا ہوں - جیسا کہ سجادہ نشین و متولی درگاہ شریف حضرت خواجہ خواجگان حضرت خواجہ اجمیری رحمۃ اللہ علیہ وغیرہم ہیں۔

ENGLISH TRANSLATION.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division : Muhammadan): Honourable President and Honourable Members of the House, devoted servants of Islam have frequently invited the attention of the Mussalmans of India to the mal-administration, mis-use and the wretched condition of the Muslim endowments (*aukaf*) in India. But unfortunately the Mussalmans have always turned a deaf ear to these proposals, and the question of the reform of Muhammadan endowments has never been taken up in right earnest. No Muslim association or conference has ever attempted the re-organisation of the endowments of their province and to utilise their income for really benevolent objects. Nor have the trustees cared to spend the large incomes of such endowments in strict conformity to the wishes and intention of the pious donors.

The Honourable Mover of the Bill has now taken up this noble work in hand, for which the thanks of all the Mussalmans of India are due to him. No Mussalman can have any objection to the principles of the Bill. If our endowments be properly managed in accordance with the provisions of the Bill, the pecuniary difficulties that invariably beset all our schemes of educational and social reform and progress will at once disappear, our religious and educational objects could be more easily achieved, and our leaders will not be confronted with difficulties so often met with in collecting the necessary funds for their social and educational schemes. There will then always be an ample fund at our disposal for our religious and charitable purposes and the case of "the deserving receiving their rights" will then come true.

After these preliminary remarks in support of the Bill, I would like to draw the attention of the Honourable Mover to certain defects in it which have raised suspicions in the minds of the educated Muhammadans of India. They consider that the powers proposed to be given to the District Officers under section 16 may be harmful to both the Government and the Muhammadan public. Considering the present political situation of the country, I shall never advise the Government of India to abandon its time-honoured policy of non-interference in religious matters. Although I think that the

presence of the District Officer on the District Committee may be useful in a way, the harm caused by his unwelcome presence there in creating bad feeling and mistrust in the minds of the Mussalmans in general will, in my opinion, be so great that I would willingly forego even some of the Muhammadan interests. I am perfectly sure that that portion of the Bill which relates to the official interference can never be appreciated by the Muhammadans and will rather afford a strong handle to the opposite party to stir up further agitation. In my humble opinion, therefore, Government should strictly adhere to its old praiseworthy policy of non-intervention in religious affairs.

If the Provincial Governments or the District Officers would be empowered to appoint and dismiss the members of central and local Committees, there is a risk of constant friction between the Government and the Mussalmans. The Bill, under these circumstances, instead of proving a boon to the public, may be very injurious and trouble-giving to both. The Government of Bihar and Orissa and other high officials have realised this danger. I trust, therefore, that in view of the strong recommendations of several high officials the Honourable the Home Member and, especially, the Honourable the Law Member will introduce the necessary amendments, and will keep in view the practical difficulties and troubles with which District Officers and Provincial Governments will be confronted if the Bill was passed into law in its present form.

The formation of Provincial and District Committees should be left entirely in the hands of the Mussalmans themselves who will have the best opportunity of judging the merits and demerits of those whom they would select for trusteeship. The District Officers can seldom have such a chance, as truly pious persons never court their interviews.

There is another point worth considering. Generally *Sajjada Nashins* and *Mutwallis* of *Waqf* properties have got their own names entered in the official records. In *Jamabandis*, instead of the name of such and such *Khankah*, the name of such and such *Mutwalli* appears as the proprietor. This practice should be stopped and correct entries made, so that the *Mutwallis* may not be able to sell or mortgage the *Wakf* property or any portion thereof, as has been done in very many cases.

In section 13(2), it should be made clear that the sale-proceeds of the accounts shall be deposited in the *Wakf* fund. The accounts should be published in Muhammadan newspapers besides the Government official *Gazettes*, which are not perused by the people in general, so that a greater number of people may have an opportunity of going through them and of expressing their views in the matter, and may also be able to make announcements in the form of notices, etc., about anything big or small for the public good.

Before the Bill is passed into law, we must, however, be very careful in making every provision in it to safeguard the honour and exalted position of those holy saints who are looked upon, with the greatest reverence, by thousands of Mussalmans and are considered as their holiest spiritual and religious guides. These must not be placed under any control whatsoever of a Committee or District Officers. No Mussalman can ever approve of a measure which would place these holy personages under the tutelage of Muslim or non-Muslim trustees. It can never be a popular measure. There are some Muhammadans who have a special regard for these saints for whom they will readily sacrifice everything, even their lives; to these will surely such a Bill be very objectionable, e.g., the *Sajjada Nashin* and *Mutwalli* of the holy shrine at Ajmere Sharif.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

Maulvi Miyan Asjad-ul-lah * (Bhagalpore Division : Muhammadan) :

آنریبل پریسیڈنٹ و آنریبل ہاؤس - میں مخالف کرتا ہوں اپنے آنریبل دوست ڈاکٹر گور کے بل کا جس میں وہ چاہتے ہیں کہ عورتوں کو عدالتوں میں بحیثیت وکیلوں کے پیش ہونیکا حق دیا جائے مجھے افسوس ہی کہ نہایت اہم و ضروری راز جو کہ اس بل میں پوشیدہ ہیں اوسکی بنا پر ہمیں اس معاملہ میں پھر مخالفت کے ایٹے کہوا ہونا پڑا - ہمارے نکتہ خیال سے اگر ایسے اختیارات انصاف کے بارہ میں عورتوں کے ہاتھ میں سونپا گیا تو ہمیشہ انصاف کا خون ہوتا رہیگا

کوئی عدالت کیسا ہی انصاف کرے لیکن کامل ہو لیکن جب عورتوں کا وجود درمیان میں رہیگا تو کبھی وہ سیدھا راہ نہیں چل سکتا - گمان غالب ہی کہ جب مرد پیرکار اپنے موکل کے طرف سے پیرکار ہوگا اور دوسری جانب سے ایک نوجوان عورت پیروری کرے گی تو مجھے کبھی بھروسہ نہیں ہی کہ وہ عورت ناکام ہو جائے کیونکہ اوس میں حسب ذیل بے انصافی ہونیکا اندیشہ ہی - ایسی ہی خیال کو ہمارے پٹنہ ہائی کورٹ نے محسوس کرتے ہوئے عورتوں کو وکالت کے ناقابل مانا ہی جو کہ بل میں درج ہی

اول ہوسکتا ہی کہ عدالت خود حسب قانون قدرت عورتوں کے ہاتھ کے طرف زیادہ راغب ہو

دوسری یہ گمان ہی کہ جب گواہوں پر وہ جرح کرے گی تو حسب منشاء انسانیت گواہان عدالت عورتوں کے ہاتھ میں آکر یا محو ہو کر اپنے بیانات کو سچے نہ کہسکیں تیسرے یہ مشکل کا سامنا ہی کہ دوسری فریق کے مرد وکیل ایسا نہ کہ عورتوں کے بحث و شریعی تقریر و ناز ادا جو کہ قانون قدرت نے مردوں کے دل لہانے کے لئے اونہیں عطا کیا ہی مائل ہو کر اپنا اصل مطالب ہاتھ سے کھربینہیں اور پورا فرض اپنا ادا نہ کرسکیں - چونکہ وکیل صاحبان نے اپنا یہ طریقہ عام جاری کر رہا ہی کہ کل محفلانہ پیشگی وصول کر لیتے ہیں تو اب اونہیں کیا پورا ہی کہ اونکا فریق جیتے یا ہارے -

نیز عدالتوں کا شیوہ انصاف متزلزل ہونیکا اندیشہ ہی کیونکہ ایک مرد وکیل نے اگر بہت کوشش و جانفشانی سے عدالت کے خیال کو چند گھنٹوں میں اپنے فریق کے طرف مائل کر لیا ہو

*Vide Legislative Assembly Debates, Volume III, page 2581.

تو دوسری طرف سے عورت وکیلہ چند مقننوں میں عدالت کو اپنے طرف مائل کر لیگی یہ کام غالباً ہی

بالغرض اگر ہمارے ڈاکٹر موصوف یہ جواب دیں کہ اگر ایسا واقعہ ہوگا تو ہر دو جانب سے وکیلہ عورتیں مقرر ہونگی تو پھر ہمارے مرد وکیلوں کو سخت نقصان کا سامنا ہوگا عورتیں چونکہ خاص کر نازک مزاج ہیں اور عموماً ایسے واقعات اور باتیں پیش آتے رہتے ہیں جن سے مقننوں میں وہ کام کرنے کے قابل نہیں ہوتیں اور موقعوں پر وہ حاضری عدالت سے معذور رہیں تو ایسے حالات میں موکلین کا بہت نقصان ہوا کریگا۔ اور عدالتوں کے کام میں بھی ہر جہ واقع ہوگا کہ ان نازک انداموں کے خاطر سے مقدمات کو مانتی کرنا پڑے گا اور کام میں ہر جہ واقع ہوگا

اگر حاکم عدالت کوئی رشوت وغیرہ لیکر کسی کا مقدمہ خراب کر دیتا ہے تو اس کے لئے قانون میں سزائیں مقرر ہیں۔ اب میں اپنے آنریبل ڈاکٹر سے یہ عرض کرتا ہوں کہ اول یہ یہ بتائیں کہ ان حکام کے ادارے کریگا کہ ان کا آگے ہوگا جو ان عورتوں کے فعل و عمل سے متاثر ہو کر خلاف آئین و قوانین عدالت موجودہ فیصلہ کیا کریگا۔ مجھے یہ بھی اندیشہ ہے کہ عام لوگوں کو زیادہ نقصان پہنچے گا اور ان کا بہت سا رویہ بیکار ہوگا۔ اول تو عموماً وکیلہ صاحبہ مردوں سے زیادہ اپنا فیس مانگیگی۔ دوسری یہ کہ نوجوان لڑکے بلا وجہ صرف وکیلہ صاحبہ کے خدمت میں باریاب ہونیکا موقعہ نکالنے کے لئے جھوٹے دعویٰ اور جھوٹی جوابدہیاں کیا کریں گے مگر وکیلہ صاحبہ کے پاس تو روپے کی خوب پیسے بھیگی۔ اب یہ سب باتوں کو مدنظر رکھتے ہوئے میں حیران ہوں کہ ڈاکٹر گور نے کس نکتہ خیال سے یہ بل پیش کیا ہے ہمارے سمجھ میں نہیں آتا۔ اسے بل کے پیش ہونے پر میں یقین کرتا ہوں کہ آنریبل پیش کنندہ کو انگلستانی یا ہندی منظور ہے لیکن ہماری ملک کی حالت اور انگلستانی حالت میں بہت فرق ہے جو بات رہانے کے مفید ہے ہمارے لئے وہی نقصان دہ ہوا کرتا ہے پس ان وجوہات پر میں بل ہذا کی مخالفت کرتا ہوں

ENGLISH TRANSLATION.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division : Muhammadan): Honourable President and Honourable House, I rise to oppose my Honourable friend, Dr. Gour's Bill which proposes to confer rights on women to appear as legal practitioners in the Courts. I regret I have to oppose this Bill again as it involves some very important principles. I am afraid if women were allowed this privilege justice will always be miscarried.

No Court of Justice, however perfect it may be, can deal justly and impartially where women are engaged in pleading cases before it. When a case will be conducted on one side by a man and on the other side by a woman,

the chances are that the latter will carry the day. The following reasons, amongst others, may be mentioned that injustice will likely result if women be allowed to plead in Courts. And it is mainly these considerations which have led the Patna High Court to refuse the special privilege to women. First, the Judge himself may very naturally have a leaning towards the sweet words of women lawyers. Secondly, witnesses, when cross-examined by them, may very likely be duped and captivated by their charms and thus may not give accurate replies to questions put to them. Thirdly, the male pleaders of the opposite party may very naturally be captivated by the sweet words and blandishments of their fair opponents (women being naturally very attractive) and thus fail in the performance of their duty to their clients. As lawyers generally take their fees beforehand, the result of the case is of little concern to them. Moreover the administration of justice will be seriously affected in view of the fact that while a male lawyer can bring home a certain point to the Court in his client's favour in several hours, a female lawyer will, by her sweet arguments, achieve her object in so many minutes.

If Dr. Gour holds that in these circumstances both parties will be at liberty to engage female lawyers, then the male lawyers' practice will surely suffer. Women being of delicate constitution will often be unable to perform their professional duties and to appear before the Court much to the detriment of their client's interests, as also of the work of the Court, which will have to be occasionally interrupted merely in deference to the convenience of the fair pleaders.

If a Judge spoils a case by accepting a bribe, he is generally punished for this act. What will be the punishment of those Judges, I ask Dr. Gour, who will allow their judgments to be biassed by the charms and blandishments of fair lawyers and to go against the established laws and usages of the country.

I am afraid that a good deal of money will have to be sacrificed at the altar of beauty and fashion as our new lawyers will demand higher fees than their male colleagues. And many a young man will go to the length of bringing false suits and making sham defences simply to ingratiate themselves into the good graces of a pretty Vakil, and, as a consequence, fat fees will flow to her.

Considering all this I am at a loss to understand what particular object Dr. Gour had in view in bringing forward this measure before the Assembly. I daresay he may have the English practice in his mind. But the circumstances of our country are quite different from those of England; and what is good for them may not be suitable for our country. On these grounds, therefore, I oppose the Bill.

Maulvi Miyan Asjad-ul-lah* (Bhagalpore Division : Muhammadan) :

انٹرایبل پریسیڈنٹ و ممبران ہوں - ہمارے درستی انٹرایبل فنانس ممبر نے بحث زیر بحث میں نمک پر ٹکس لگا کر ریہہ کی کمی کو پورا کرنیکی جو نچویز پیش کی ہی رہ بظاہر حصول مقصد کے لیئے نہایت عمدہ اور آسان معلوم ہوتی ہی - لیکن جب میں دیکھتا ہوں کہ ہند کی کثیر آبادی نمک کو کثرت سے استعمال کرتی ہی - اور نمک پر ٹکس لگانے سے انکی مالی حالت اور صحت پر بہت برا اثر ہوگا تو مجھے سوائے اس کے کوئی چارہ نظر نہیں آتا کہ میں نمک کے ٹکس کی مخالفت کے لیئے کہو ہوں اور انٹرایبل فنانس ممبر کی خدمت میں دیگر ممبر صاحبان کے ہم زبان ہوکر عرض کروں کہ وہ اس نا مبارک نچویز کو واپس لیکر انٹرایبل ممبران ہوس و اعلیٰان ہند سے خراج تحسین حاصل کریں -

انٹرایبل فنانس ممبر صاحب کی تقریر سے صاف ظاہر ہوتا ہی کہ نمک پر ٹکس لگانا اشد ضروری ہی - اس غلط رائے قائم کرنی میں وہ ایک صریح غلطی کے مرتکب ہوئے ہیں اور وہ یہ ہی کہ انہوں نے ہندوستان اور انگلستان میں نمک کے خرچ کا توازن کرتے ہوئے ہندوستان اور انگلستان کے لوگوں کی حالت کو مسماری تصور کیا ہی - حالانکہ یہ حقیقت سے بہت بعید ہی - اول تو کھانیکا نمک انگلستان میں بمقابلہ ہندوستان کم صرف ہوتا ہی کیونکہ انگلستان کے لوگ اکثر کھانوںکو بلا نمک تیار کرتے ہیں اور جن کھانوںمیں نمک والا جاتا ہی وہ بھی بمنزلہ نہ ہونیکے ہوتا ہی - برخلاف اس کے ہندوستان میں بلانمک کوئی کھانا تیار ہی نہیں ہوسکتا - اور غربا نمک کے بغیر کھانا کھای ہی نہیں سکتے - ہمارے ہاں یہ مثل مشہور ہی کہ امرا زیادہ چونیکا استعمال کرتے ہیں اور غربا نمک کا - چونکہ غربا بوجہ محنت و مشقت کھانا زیادہ کھاتے ہیں اور اسکو ہضم کرنیکے لیئے نمک زیادہ استعمال کرتے ہیں - انٹرایبل ممبر صاحبان اسمبلی کو یہ بات بخوبی معلوم ہی کہ دیہاتی لوگ جسوقت صبح کو کلم پر جاتے ہیں تو چارل کھانیاوالے بھات پر نمک چھڑک کر علی الصبح بھات کھالیتے ہیں اور جو لوگ روٹی کا استعمال کرتے ہیں وہ بھی صبح کو نمک مرچ کی چٹنی کرتے

اسی سے روٹی کھالیتے ہیں اور پھر کھیتوں میں کام کرنے کو چلے جاتے ہیں ۔ اور دوبارے بعد کا کھانا سبزی گرکاری اور نمک کے سہارے سے کھایا جاتا ہے ۔ مزدوروں کے قلیل محنتانہ کو مدنظر رکھتے ہوئے جسکی تعداد ۳ یا ۴ آنہ یومیہ سے کبھی زیادہ نہیں ہوتی میں کبھی گوارا نہیں کرسکتا کہ ان غربا کے اس واحد شے خوردنی کو اس سختی سے ٹکس کیا جارے ۔ جیسا کہ ہمارے انٹرایبل فنائس ممبر نے تجویز فرمایا ہے ۔ اے حضرات آپ ذرا غور فرماویں کہ اس گرانی کے زمانے میں ۴ آنے کے مزدوری میں دنرو وقت تو ایک آدمیکا کھانا مشکل سے ملسکتا ہے چہ جائے کہ ان غریبوں کا بال بچہ بھی ہوتا ہے اب سوائے اللہ کے ان غریبوں کا روزی کا ذریعہ کچھ ہمارے سمجھ میں نہیں آتا ہے

انٹریبل فنائس ممبر نے نمک کے ٹکس کی تجویز کو پیش کرتے ہوئے اس امر کو نظر انداز کر دیا ہے کہ ہندوستان زراعتی ملک ہے اور ملک کی کثیر آبادی زراعت پر گذر کرتی ہے اور ہندوستان میں واحد ذریعہ کشاورزی نرگاران وغیرہ ہے ہیں جنکے لیٹے نمک کا استعمال ضروری ہے ۔ اور یہ بات بھی ظاہر ہے کہ زراعتی بیلوں اور گھوڑوں وغیرہ کی خوراک میں جو نمک استعمال ہوتا ہے اسکی مقدار اس نمک سے کہیں زیادہ ہے جو انسان کے خوراک میں استعمال ہوتا ہے لہذا نمک پر ٹکس لگانے یہ معنی ہونگے کہ ہم غربا اور زراعتی حیوانات کو اونکی ضروریات زندگی سے محروم کردینگے ۔ اور نمک پر ٹکس لگانے وہ لوگ مجبوراً نمک کا استعمال کم کردینگے اور اس کمی استعمال نمک سے اونکی صحت بھی قائم نہ رہسکیگی ۔ لہذا میں امید کرتا ہوں کہ انٹریبل ممبران ہوس اس اہم پہلو کو مدنظر رکھتے ہوئے نمک پر ٹکس لگانے کی تجویز کو مسترد کردینگے ۔

ایک اور تعجب انگیز اور ضروری امر یہ ہے کہ بارجوڈیکہ ہندوستان میں بمقابلہ انگلستان نمک زیادہ طریقوں سے استعمال کیا جاتا ہے اور علاوہ انسان کے استعمال کے حیوانات کے استعمال میں بہت آتا ہے تاہم ہندوستان میں نمک کا خرچ انگلستان کے خرچ سے بدرجہا کم ہے ۔ بالفاظ دیگر ہمیں یہ کہونگا کہ ہندوستان بوجہ غربت نمک جیسی ضروری چیز کو بھی بوجہ موجودہ ٹکس کے حسب ضرورت استعمال نہیں کرسکتا ۔ اور یہی سبب ہے کہ انگلستان میں نسبتاً نمک بہت زیادہ استعمال ہوتا ہے ۔ انگلستان کے مزدور پیشہ لوگ بہت معمول ہیں اور یہاں کے غربا کا وہاں کے غربا طبقہ سے مقابلہ ہی کرنا فضول بات ہے

جب ہندوستان کے غریب موجودہ ٹکس کے متحمل نہیں ہو سکتے جیسا کہ اوتھے نمک جیسی ضروری ضرورت زندگی کے کم استعمال سے ظاہر ہوتا ہے تو نمک پر ٹکس کو دوچند کرنا اوتھی پر بادی کا مرادف نہیں تو اور کیا ہے۔

مجھے بخوبی یاد ہے کہ شہنشاہ ایدوارہ ہفتم جب سرور آرائے تخت انگلستان اور ہندوستان ہوئے تو روزائے سلطنت نے نہایت دانائی اور وسعت نظری سے محصول نمک ہندوستان پر ایکدم معاف کر دیا اور اس خسروانہ فیاضی سے ہندوستان کے ہر گھر میں خوشی کے شادیاں بجنے لگی۔ برخلاف اس کے میں نہایت افسوس کے ساتھ دیکھتا ہوں کہ ہمارے محترم مشیران سلطنت اب نمک کے ٹکس ہی پر سلطنت کا دار و مدار تصور کرتے ہیں اور نمک کے ٹکس کے سوائے انہیں کمی آمدنی کو پورا کرنیکا کوئی ذریعہ نظر نہیں آتا۔ اس کوتاہ نظری سے غریب پر جو موجودہ ٹکسوں سے چرور ہرے ہیں مزید ٹکس کی تجویز کرنا غلطی نہیں تو اور کیا ہے۔ حضرات اسبلی اور خاصکر ممبران گورنمنٹ کے خدمت میں گذارش کرتا ہوں کہ ہندوستانیوں ایسا انتظام محصول کا کرنا چاہیئے کہ جس سے بڑے لوگوں پر ٹکس عائد ہو۔ نہ کہ غریب پر۔ اے ہمارے مہربان خیال تو فرماؤ کہ جو غریب لوگ نمک اور بہات کھا رہے ہیں اون پر ٹکس لگانا کبھی حمیت قبول نہیں کریگی اسکے لئے تو یہ شعر فارسی کی حسب حال معلوم ہوتے ہیں — جو خود را پر غریبان آزماید روزگار * تیغ را دائم برائے امتحان ہر موزند * حیف مجھے اس نمک کے ٹکس سے وہ قول نوشیروان عادل کا یاد آتا ہے کہ جسے ۱۴۰۰ سال گذر گیا۔ جب وہ ایک شکار گاہ میں تھا تو اس کے واسطے ایک شکار کو کباب کر رہے تھے لیکن نمک نہ تھا۔ شخصے را برہنہ درآیندند تا نمک آرد۔ نوشیروان عادل گفت بقیمت بستان تا رسمے نکرده رده خراب نشود نفقے ازین قدر چہ خلل زاید گفت بنیاد ظلم در جہان اول اندک بودہ است و ہر کہ آمد بران مزید کرد۔

اس زمانے میں جبکہ نمک پر کوئی قانون اور رکارڈ نہیں تھا تو بادشاہ تھروا نمک ایذا اپنے رعیت سے منظور کیا تو اس وقت موجودہ قیمت پر اگر ایسا ٹکس لگایا گیا تو یقین ہے کہ ضرور غریبوں پر تکلیف عظیم ہوگا

اگر آئرلینڈ مسٹر شاہانی جو کپڑوں پر ٹکس لگانے کے طرفدار ہیں تو اسکا بھی ضرورت غریبوں کو زیادہ ہوتا ہے میں راضی ہو سکتا ہوں اور کپڑوں پر محصول زیادہ کرنا یہ جسکو امیر لوگ استعمال کرتے ہیں لیکن غریبوں کے کپڑوں پر ٹکس بڑھانا بہت تکلیف دہ بات

ثابت ہوگی یہ میں ایک سچے طریقہ سے اپنی رائے ظاہر کرتا ہوں کہ اُس کپڑوں پر ٹکس نہرنا چاہیئے جو کپڑے کہ غریبائے ہند استعمال کرتے ہیں۔ ہاں اختیار باقی ہی کہ امیروں کے استعمال کے کپڑوں پر خاص خاص ٹکس لگایا جائے یا نہیں اور میں کوئی تردد کی بات نہیں ہی۔ پس میں غریبے ہندوستان کے خیالات پر اسوقت آنریبل ہاؤس میں گزارش کرتا ہوں کہ نمک پر محصول مقرر کیا جائے اور نہ غریبوں کے استعمالی کپڑوں پر۔

میں خوب یاد ہی کہ جب پہلے سال میں الکشن میں اچھے احاطہ بہار اور اریسہ میں تھا تو ایک شخص نے مجھے کہا کہ آپ غریبوں کے کیا بھلائی کر سکتے ہیں جبکہ گورنمنٹ نے ایک قانون بنایا ہے کہ سمندر کا پانی کو لیکر اگر کوئی نمک بنائے تو مجرم ثابت ہوتا ہے۔ مجھے وہ بات یاد ہی لیکن اس در سال کے اندر ایسے ایسے مشکلات سلطنت کو پیش آئے کہ احقر نے کوئی رزلوشن اس کے واسطے پیش کیا۔ اب یہ کیسی مشکل کی بات ہے کہ اگر خدا نخواستہ میں الکشن میں اوس آدمی سے ملاقات کروں تو اس کا کیا جواب دوں گا جب کہ سمندر کے پانی کو فری کرانے کے بجائے ہملوک ایک بہاری ٹکس نمک پر عائد کر رہے ہیں۔

ماسیوائے آدمیوں کے ہندوستان میں زیادہ جانوریں نمک کھایا کرتے ہیں۔ اس کے لئے نمک کا بہم پہنچانا ضروری ہوتا ہے اگر نمک ایسا گران ہملوک نے کر دیا تو حیوانات کو جب نمک نہیں ملیگا تو اس کا عذاب بھی ہمارے ہی سر رہے گا کیونکہ جانور بے زبان ہیں حیوان کوئی عذر ہمارے سامنے نہیں کر سکتے ہیں اس کی حسب حال یہ شعر ہے

شنیدم کہ بر سر رخ و مور و دران شد تنگ روزی ز فعل بدان

اس شعر کا حاصل مطلب یہ ہے کہ آدمیوں کے فعل کے وجہ سے حیوانات پر روزی کی تنگی ہوتی ہے جو مانی ہوئی بات ہے۔ پتھر ل جو کہ برما سے برآمد ہوتا ہے اوس پر ٹکس کیوں نہیں لگایا جاتا ہے کیونکہ وہ تو ہمیشہ امیروں اور مالداروں کی استعمال میں آتا ہے اور تو معلوم بھی نہیں ہوا اور گورنمنٹ کا مطلب بھی حاصل ہو جائیگا اور انتظام سلطنت میں دقت نہوگی۔ اور دوسری چیز شراب ہے جس کو اکثر امیر اور فارغ البال آدمی استعمال کرتے ہیں اوس پر محصول کیوں نہیں بڑھائی جاتی ہے۔

ان کے سوائے چاندی و سونا جو کہ امراتوں کے جیش و حشم میں استعمال ہوتا ہے اوس پر کیوں ٹکس نہیں بڑھایا جاتا ہے اوسے غریبوں پر کوئی مشکلات کا حملہ نہیں ہوا۔ ماسیوائے کے جواہرات ہیں جو کہ ہمیشہ اعلیٰ طبقہ راجہ و نواب۔

و امراء ہند کے استعمال میں آئے ہیں اور پھر محصول بڑھانا کوئی مشکل ہمیں نظر نہیں آتا۔ ایسے چیززنگر چھڑکر صرف نمک ہی پر محصول زیادہ کر دینا غریبوں پر ایک تکلیف شدید پہیلانا ہی۔ پس میں اب کسی طرح سے اپنے ناقصراء میں نمک کے محصول کو قبول نہیں کرسکتا ہوں اور سفارش کرتا ہوں انریبل ممبران ہاؤس سے کہ اس امر کو اچھے طرح سے سناچ سمجھ کر اپنا اپنا رائے ظاہر فرماویں تاکہ کوئی غلطی گورنمنٹ کے صیورنگا اس بارے میں نہ ہو۔ صرف اب چند لفظوں سے میں نمک کے دیوٹی پر ناراضگی ظاہر کرتا ہوں۔

ENGLISH TRANSLATION.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division : Muhammadan) : Honourable President and Honourable House, the proposal of the Honourable Finance Member to impose a duty on salt in order to make up the deficit in the Budget appears, at first sight, to be a very reasonable and easy method of gaining the object in view. But when we take into consideration the fact that the vast population of this country consumes salt in large quantities, and that in consequence a duty on this article of every-day consumption will surely affect their purse as well as their health, I confess, I have no other alternative but to oppose the proposed taxation and to request, with the other Honourable Members of the House, the Honourable Finance Member to withdraw this unfortunate proposal and thereby earn the gratitude of the House and of the people in general.

It is evident from the Honourable Finance Member's speech that he considers the imposition of such a tax to be absolutely necessary. I beg to point out, however, that he has overlooked an important point in this matter. While considering the comparative consumption of salt by the people of India and of England, he seems to imagine that the conditions of the two countries are alike. But this is not actually the case. First, eating salt is much less used in England than in India, as most English dishes are prepared without or with a very little admixture of salt in them; whereas it is a *sine qua non* of almost every Indian dish and, for the poor, it is an absolute necessity. We have a proverb that lime is the rich man's thing and salt that of the poor man. This is undoubtedly the case, because poor people have to do hard manual work and eat coarse food and therefore they require a good dose of salt to help digestion. We must have all seen village labourers, before starting for their day's work, eat their morning meals of rice or bread with a good pinch of salt sprinkled over it or mixed with a savoury *chutney*. And their midday meals also consist of nothing but some vegetable and salt. Now, considering the low wages of these poor people, which seldom exceed three or four annas a day, I cannot bear for a moment that their one article of diet should be singled out for taxation, as has been proposed. Gentlemen, just think for a moment, how very difficult it is during these hard times to have two meals on four annas a day and these poor creatures have to support themselves and their families on this pittance. This is surely the work of Providence beyond our understanding.

In proposing a duty on salt the fact that India is mainly an agricultural country and a very large proportion of its population is engaged in agricultural pursuits, has been overlooked. Bullocks are the principal means of our agricultural operations and for them also salt is very necessary. And it may be noted that the quantity used for the food of cattle and horses is much larger than that used for human consumption. Therefore a tax on this article of every-day use would mean to deprive the poorer classes and the cattle of their very necessities of life, for owing to heavy duty its consumption will surely be reduced and their health will consequently suffer. I hope, therefore, that in view of these important facts Honourable Members will reject the proposed taxation.

Another very strange and important point worth considering is that although India consumes salt in many more ways than England, as in India besides human beings it is largely used by animals also, yet its consumption here is comparatively smaller than in England. The reason is not far to seek. Poor India cannot afford to consume sufficiently even this one article of necessity owing to its present duty. On the other hand, there is a much greater consumption of it in England, as the labouring classes there are pretty well-to-do, and there can be no comparison whatever between the poor of the two countries. When we see that the present duty is not free from hardship on the poor classes, as is evident from the small consumption of salt in India, it would be nothing short of disaster should this duty be doubled.

I well remember when King Edward VII became our King-Emperor, the Ministers of State very wisely abolished the salt-tax and this act of royal favour was acclaimed with the greatest joy in every Indian household. I am much grieved to see now that our noble advisers of Government consider such a tax to be an absolute necessity, as if this was the only means of filling up the empty coffers of the State. To inflict further taxes on poor India, which is already groaning under a heavy burden would be nothing short of gross blunder. I request the Members of the Assembly, and especially the Government Members, to levy taxes in such a way that the rich and not the poor bear the brunt.

Gentlemen, just think how shameful it would be to tax those who subsist on rice and salt alone. A Persian couplet is very appropriate here :

*Jouri khud ra bar gariban ázmoyad rozgar-Teghra dayam barác-
imtihan bar mu zanand.*

Time tries experiments of oppression on the weak—the keen edge of the sword is always tested on a hair.

This salt-tax reminds me of a well-known story about Noushirwan the Just, king of Persia, who lived more than 1400 years ago. Once when he was out on a hunting expedition meat was being roasted for him. The rest of the story may be heard from Sádi himself :

*“Shakhse ra barusta dawanidand ta namak arad. Noushirwan-i Adib
guft ba kimat bistan ta rasme na' gardad wa dih kharab na
shawad. Guft azin qadar chi khalal záyad. Guft bunyadi
zulm dar jahán awal andak 'unda ast wa har ki ámad barán-
mazil kard”.*

"Some one was sent to a village to get some salt. Noushirwan the Just said: "Be careful to pay for it lest it be a custom and prove the ruin of the village". It was pointed out to him that a little salt won't matter much, but Noushirwan replied: "Oppression had a very small beginning, every one who came afterwards added to it."

In those days when there were no restrictions and duty upon salt the king did not like to take even a small quantity of it without paying for it. Now, if any more tax was added to the present duty, it will really be a very great hardship on the poor.

The Honourable Mr. Shahani has proposed a tax on cloth. But this article also is of great usefulness to the poor. You may tax the rich man's cloth, but save the poor man's cloth from taxation, for it will entail a great hardship upon him. It is my confirmed opinion that the cloth used by poor people should not be taxed. Of course we are at perfect liberty to propose special taxes for the cloth worn by the rich; there will be no hardship caused by such a tax. But considering the circumstances of the poorer classes I strongly protest against the tax on salt as well as on the poor peoples' cloth.

I remember very well that in the first year of the Council elections in my native province of Bihar and Orissa, a certain person asked me how I would be able to do any good service to the masses when Government had passed a law incriminating any person who will prepare salt from the sea-water. I fully remember these words now, but as Government, during the last two years, had been confronted with special difficulties, I had no opportunity of moving any Resolution in that respect. I don't know, I am sure, what answer I should give to that man, if I unfortunately met him again at the next election, when, instead of freeing the sea-water for the use of salt, we are placing a heavy tax upon salt itself.

(As already said) salt is used by cattle also in this country. We have to provide it for them. Now if we made it so dear by heavy taxation, how shall we then provide it for our "dumb driven cattle", and of course this sin will be upon our shoulders, for the poor creatures cannot speak out their grievances. A poet has truly said:

*"Shunida ki bar murg ho moro dadan,
Shawad tang rozi ze fele badan."*

"It is said that quadrupeds, birds and even insects suffer on account of the evil actions of man."

This is undoubtedly true. I would leave salt and cloth alone and would suggest an import tax on (1) petrol, (2) wines, (3) gold and silver and, (4) precious stones. All these are the rich man's luxuries and can easily and safely bear taxation. Nos. 3 and 4 are things of pomp and splendour and the latter can be used by the Rajas and Nawabs and other rich people only. Any tax on them will be free from hardship. Leaving all these suitable items and taxing the very necessities of life will involve a very great hardship on the poor.

I cannot, therefore, agree to any tax on salt and request the Honourable Members to pause before accepting the tax, so that Government Members may not be misled. With these few words I oppose the proposed tax on salt.

V

UNSTARRED QUESTION AND ANSWER.*

244. **Lala Girdharilal Agarwala:** (a) Is it a fact that motor car owners who purchase a car for Rs. 4,000 have to pay taxes on it in the first year amounting to Rs. 1,297 and thereafter nearly 10 per cent. of the initial cost every year subsequently as printed in the *Pioneer* of Allahabad, dated 8th March, 1923, at page 14?

(b) Are the Government aware that the United Provinces Government proposes to impose a further tax of Rs. 180 yearly on each motor car?

(c) If the reply be in the affirmative, do the Government propose to do anything in the matter?

The Honourable Sir Basil Blackett: (a) The Government of India have seen the correspondence in question appearing in the *Pioneer* of the 8th March, 1923, but are not in a position to endorse the calculations given therein which are based on several hypothetical data.

(b) Yes.

(c) No.

* *Vide* Legislative Assembly Debates, Vol. III, page 3731.

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Adopted. 1114.

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