

28th January 1937

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

Volume I, 1937

(25th January to 19th February, 1937)

**FIFTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1937**



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M89LAD

Legislative Assembly.

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SARDAR SANT SINGH, M.L.A.

MR. M. GHILASUDDIN, M.L.A.

MR. MATHURADAS VISSANJI, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 28th January, 1937.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

SHORT NOTICE QUESTION AND ANSWER.

DIFFERENT DATES OF POLLING FOR ELECTIONS IN DIFFERENT PROVINCES.

Sir Muhammad Yakub: (a) Has the attention of Government been drawn to the statement issued by Mr. M. Asaf Ali in the *Hindustan Times* of the 23rd January, 1937, complaining of the action of Government in arranging different dates of polling for elections in different provinces?

(b) Were the Government of India consulted by the Local Governments in the matter of selection of dates in the provinces?

(c) Are there any reasons for the dates being different in the different provinces?

(d) What is the total number of Members of the (1) Congress and (2) Nationalist Congress Groups?

(e) How many of such Members belong to provinces in which the elections will be over by the end of January, 1937?

(f) Was there any difficulty in the way of Government in fixing the 23rd February for commencement of the Session, and, if so, what?

(g) In the statement of Mr. M. Asaf Ali, it has been said that elections in Bombay and Madras do not permit Members coming to Delhi before the 20th February. How many Members of the Assembly from those Provinces are seeking election for Provincial Assemblies?

The Honourable Sir Nripendra Sircar: (a) Yes.

(b) As I stated in my replies to Mr. Satyamurti's question No. 27 on the 1st September last and to his question No. 773 on the 1st October last, the Government of India were not consulted and they did not interfere directly or indirectly with the fixing of the dates for election to Provincial Legislatures.

The dates were fixed by Local Governments to suit local conditions, taking into consideration the progress made in each province for preparation of electoral rolls, the establishment of machinery requisite for elections and the allowing of intervals required by rules or otherwise between different stages leading to the final stage of polling for the elections.

(c) Yes. For instance in Bombay, the electoral rolls were published at the earliest possible date, viz., 5th October, 1936. Notices for primary elections were issued on the very next day, that is to say, on the 6th October, 1936, and the 19th October was fixed for nominations as required by electoral rules. Polling for primary elections was fixed for the 10th November, thus allowing minimum necessary time for printing and distribution of ballot papers throughout the Presidency, and votes were counted

on the 16th November, which is also the minimum necessary interval. Notices for general elections were issued on the 5th December, thus allowing necessary time for publication of results and for filing and disposal of election petitions, if any, in respect of primary elections. Nominations for general elections were fixed for the 18th December, allowing interval prescribed in rules, as usual, and polling will take place from the 11th February onwards. This allows about eight weeks between date for nomination and dates for polling for purpose of printing and distribution of ballot papers, which is not more than the time allowed in the past although printing is thrice heavier on this occasion than on previous occasions.

Again, in Madras, in fixing dates, one of the additional matters to be taken into consideration is the fact that the harvesting time in the Presidency is later than that in Northern India. In the United Provinces, as also in some other provinces, one of the matters to be taken into consideration is the recommendation in paragraph 286 of the Hammond Committee's report as to the interval between the declaration of the result of the primary elections and the dates of final elections.

The Provincial Governments had not only to take seasonal conditions into consideration, as also the matters already stated, but also various other matters, e.g., the undesirability of a long period between the declaration of the poll and the announcement of personnel of new Ministries, the difficulty of attendance of *patwaris* and others at polling booths for identification, which, for instance, would have been very difficult in January in the United Provinces. It was also important to allow a reasonable period for canvassing, the electorate having been quadrupled the task of candidates in getting round their constituencies, canvassing and addressing meetings has been far greater than in the past.

(d) Congress 42, Nationalist Congress Group 12.

(e) Congress 10, Nationalist Congress Group 6. This does not include the Punjab where the elections are partly over, and the others will be over very soon. The Punjab elections which will be over on February 3rd affect two Members of the Congress and three of the Nationalist Congress Group.

(f) The difficulties were unsurmountable. It would have involved postponing consideration of all non-official business and all official business other than the Budgets and the Finance Bill till in April. There would have been no possibility of the Finance Bill going through the two Houses by the 31st March, nor would it have been possible to pass in time the Bills which it is absolutely necessary for being passed before separation of Burma on the 31st March, 1937. I would like to draw attention of Honourable Members to a point which has been made in one of the statements to the Press, issued on behalf of the Congress, that by prolonging the Sessions they would lose the services of those Congress M.L.A.'s who have stood for and would be successful in getting elected to Provincial Assemblies.

(g) None from Bombay,—from Madras, three.

Sir Abdul Halim Ghannavi: Sir, in answer to part (c), it has been stated that the electoral rolls were published at the earliest possible date, namely, 5th October. Were any representations made for publication of the rolls at an earlier date?

The Honourable Sir Nripendra Sircar: No; on the other hand, representations were made from various quarters for postponing the date, and if Government had acceded to those requests, the elections would have taken place later than the dates already fixed.

Sir Abdul Halim Ghuznavi: May I know, Sir, out of members of Congress and Nationalist Groups, how many belong to provinces where the polling is over or will be over this week?

The Honourable Sir Nripendra Sircar: I think, from what I have already said, the number is 21.

Sir Abdul Halim Ghuznavi: Out of the remaining 33 Members, have Government any information if all of them are engaged in election activities?

The Honourable Sir Nripendra Sircar: Will the Honourable Member kindly repeat the question?

Sir Abdul Halim Ghuznavi: Out of the remaining 33 Members, have Government any information if all of them were engaged in election activities?

The Honourable Sir Nripendra Sircar: The information of Government is that some Members were present here on the 23rd or 25th; some are present here today, apart from the sponsors of Bills, while some are attending Courts and to their other activities without being disturbed by the elections.

Sir Abdul Halim Ghuznavi: As regards Members of this Assembly who are standing for elections and whose absence will affect voting strength on divisions in answer to part (g), it has been said that there are none from Bombay and three from Madras. Are Government aware whether any Members of this Assembly who do not belong to the Congress Group, who are standing for elections to the Provincial Assemblies?

The Honourable Sir Nripendra Sircar: I am afraid I have not got full information, but so far as I know, Mr. Rajah, Raja of Arnawan, Maharaj Kumar of Vizianagram, Sir Ghulam Hussain Hidayatallah, Mr. Abdul Matin Chaudhury, Mr. Fuzlul Huq, Mr. Anwar-ul-Azim, and Mr. Lahiri Chaudhury have stood for election to different provincial Assemblies.

Sir Muhammad Yakub: Mr. Abdul Matin Chaudhury has already been elected.

Sir Abdul Halim Ghuznavi: Are Government in a position to state to what date the Assembly would have continued on the estimates accepted in fixing dates for the Assembly if the Sessions had commenced on the 23rd February?

The Honourable Sir Nripendra Sircar: Assuming that our estimates for the duration of the Budgets and the Finance Bill are correct, the Assembly would have gone on till the 16th May.

Sardar Sant Singh: In answer to part (b) of the question, I understood the Honourable Member to say that the Government of India were not consulted in the matter of selection of dates in the provinces. May I enquire if the Government of India drew the attention of the Local Governments to the fact that there was a sure probability of a conflict between the Session of the Assembly and the elections if the dates were not fixed earlier?

The Honourable Sir Nripendra Sircar: The Government of India, as a rule, do not draw attention to facts which are apparent to everybody.

Sardar Sant Singh: Did Government realise, in view of the questions put by Mr. Satyamurti in the last Simla Session, that the Congress and the Congress Nationalist Groups were objecting to such a conflict arising between the Session of the Assembly and the elections?

The Honourable Sir Nripendra Sircar: They fully realised that, but they could not solve the difficulty of Members serving two masters or being present at two places at the same time. (Laughter.)

Sardar Sant Singh: If the Government of India did realise, as is clear from the answer of the Honourable gentleman, then did this question form the subject of any consultation among the Members of the Government as to how to solve it?

The Honourable Sir Nripendra Sircar: I do not think I am called upon to disclose what consultations took place between Members of the Government of India.

Sardar Sant Singh: I did not ask what consultations took place, but I only want to know whether there was any consultation to arrive at any solution of this difficulty?

The Honourable Sir Nripendra Sircar: That is really putting the same question in a different form. May I answer it by saying that the Government of India fully applied their mind to the question?

Sardar Sant Singh: Am I to understand that no solution was possible of such a simple question?

The Honourable Sir Nripendra Sircar: Not only was no solution possible but in the dozens of press criticisms that have appeared on behalf of the Congress no solution has been offered. (Laughter.)

THE ARYA MARRIAGE VALIDATION BILL.

Mr. President (The Honourable Sir Abdur Rahim): Legislative Business. The House will now resume consideration of the Bill to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists, as reported by the Select Committee. The matter under consideration when the debate was actually adjourned was the amendment

of Sir Muhammad Yakub to clause 2 of the Bill. The amendment was in these terms :

“That in clause 2 of the Bill, the words ‘or that either or both of the parties at any time belonged to a religion other than Hinduism’ be omitted.”

There have been already six speakers on this amendment, namely, Sir Muhammad Yakub, Mr. Asaf Ali, Maulvi Syed Murtuza Sahib Bahadur, Syed Ghulam Bhik Nairang, Pandit Krishna Kant Malaviya, and Maulana Shaukat Ali. The discussion will now be resumed.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadian) : Sir, I move that the debate on this Bill be adjourned to the first non-official day after the 23rd February, because most of the Members are not present and there is a general desire that this debate should be adjourned.

Mr. President (The Honourable Sir Abdur Rahim). As regards this request, the Chair cannot adjourn the debate on this Bill, because a certain number of Members are not present, but if it be the unanimous desire of the House that the debate should be adjourned, following the precedent on another occasion, the Chair would be prepared to consider the matter.

The Honourable Sir Nripendra Sircar (Leader of the House) : We have no objection to postponing it.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any objection to postponing the debate ?

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Before we agree to the postponement, I would like to know from the Honourable the Leader of the House what would be the attitude of the Government as regards my amendment on the date when this Bill comes up before the House again ?

The Honourable Sir Nripendra Sircar : I do not know why my Honourable friend wants an assurance as to our future conduct. The whole question is whether we are agreed to the postponement or not. We are agreed.

Sir Muhammad Yakub : Our decision would depend upon the attitude of the Government.

Mr. President (The Honourable Sir Abdur Rahim) : Then there is no agreement, the Chair takes it.

Sir Muhammad Yakub : If the Government would tell us what would be their position, then perhaps we would be able to make up our minds.

The Honourable Sir Nripendra Sircar : If that is going to be a condition of the postponement, I can inform the House that I cannot go into all the reasons, as that will require a regular speech, but our position will be that we shall remain neutral on Sir Muhammad Yakub's motion.

Sir Muhammad Yakub : Then I will have no objection.

Mr. President (The Honourable Sir Abdur Rahim): The Chair takes it that it is the desire of the House that the debate should stand adjourned to the first non-official day for Bills after the 23rd February. The Chair takes it that that is the desire of the House. (After a pause). That being the unanimous desire of the House, the debate on this motion stands adjourned to the first non-official day for Bills after the 23rd February.

The Honourable Sir Henry Craik (Home Member): Will this appear as the first item on that day?

Mr. President (The Honourable Sir Abdur Rahim): If there is no other adjourned Bill like this, then, of course, it will take the first place, but if there are any of that character, then there must be a ballot and the result of the ballot will determine the priority.

The next item is in the name of Rao Bahadur M. C. Rajah.

(Rao Bahadur M. C. Rajah was absent).

Dr. Bhagavan Das.

THE HINDU MARRIAGE VALIDITY BILL.

Dr. Bhagavan Das (Cities of the United Provinces: Non-Muhammadan Urban): Sir, I move:

"That the Bill to validate marriages between different castes of Hindus be referred to a Select Committee, consisting of the Honourable the Law Member, Diwan Bahadur Krishna Aiyar, Pandit Krishna Kant Malaviya, Rao Bahadur M. C. Rajah, Mr. Ghansham Singh Gupta, Dr. N. B. Khare, Mr. B. Das, Mr. Sri Prakasa, Babu Baijnath Bajoria, Seth Govind Das, Mr. Amarendra Nath Chattopadhyaya, Raizada Hans Raj, Mr. Sham Lal, Babu Kailash Behari Lal, Mr. N. M. Joshi, and the Mover, with instructions to report on or before the 31st March, 1937, (I should like to change the date from the 15th February to the 31st March; I had put in 15th February, because I gave a copy of this motion to the Secretary of the Assembly during the last Session at Simla, and I had hopes then that the motion might come up for discussion during that Session, but it is not appropriate now), and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. President (The Honourable Sir Abdur Rahim): Mr. Krishna Aiyar is no longer a Member of the House.

Dr. Bhagavan Das: Then, I suggest that Mr. Asaf Ali's name be put in.

Sir Abdul Halim Ghurnavi (Dacca cum Mymensingh: Muhammadan Rural): I propose that the name of Sir Muhammad Yakub be put in.

Dr. Bhagavan Das: I have no objection, if that is in addition to Mr. Asaf Ali's name.

To make the objects and reasons of a Bill to validate inter-caste marriages clear, it is necessary to say a few words about the real nature and purpose of what is now known as the caste system and about the ancient Indian ideals of marriage.

Five or six views have been put forward by the eastern and western scholars who have investigated the subject. These have been stated and criticised learnedly by Dr. Hutton in the last Census Report for 1931. Incidentally, I am rather sorry to miss him from the official benches on this occasion. He would have helped to correct any mistaken notion that I might be labouring under. At the same time, it has to be said that his own view, as stated in the Report, as well as the others which he discusses,

all endeavour to trace the origin and growth of the caste system from the standpoint of history. So far as I am aware, no one has attempted to unfold the scientific principles, the very practical values, and the great sociological significance and utility which are inherently embodied in its pristine and uncorrupted form, as I understand it.

Sir, with your permission, and the kind indulgence of the House, I wish to state these principles as shortly as I can. Sir, I have been a sort of school-master all my life and have grown into some pedantic habits. If any of that weakness creeps into my speech, I hope the House will graciously forgive it. These principles were very briefly, yet perfectly, indicated, many thousands of years ago, in some famous verses of the Rig-Veda, which I had occasion to place before the House, during the preceding Session, in connection with the Arya Marriage Validation Bill.

In its origin, the caste system was a complete Scheme of Social Organisation which consisted of four interlinked organisations; viz., an Educational organisation consisting of the learned class, called Brahmanas, and the student order, called Brahma-charis; a Defensive (Protective, Executive, or Political) organisation, consisting of the chivalrous class, called Kshattriyas, and, generally speaking, the suburban order, called Vana-prasthas; an Economic organisation, consisting of the commercial class, called Vaishyas, and the order of the householders, called Grihasthas; and an Industrial or Labour organisation, consisting of the workman class, called Shudras, as physical servants, and the anchorite order, called Sanyasis, as spiritual servants. This four-fold social organisation was based on a few fundamental, wide-reaching, principles of many sciences. It was devised by the Elders of the Aryan Race in far past times, as a great broad mould into which could be poured and thereby Aryanised, i.e., civilised, more or less, all the multitudinous tribes, not only of India, but of all the Human Race everywhere, which might happen to come within its sphere of influence—with all their innumerable occupations, hobbies, pursuits, creeds, local customs, taboos, ways of living, etc. The oldest living law-book of the human world, *Manu-smriti*, says that whatever, out of these, is not positively harmful, should be permitted:

*“Desha-dharman, jati-dharman,
Kula-dharmansh-cha shashvatan,
Pashanda-gana-dharmansh-cha,
Shastre-smin-nuktavan Manuh.”*

(*Manu*, i, 118; see also ii, 20, and x, 4).

The *Biological principle* incorporated into the class caste system is that two laws are always at work in the birth of the successive generations of living beings. They are what the modern evolutionist knows as (a) the law of heredity, and (b) the law of spontaneous variation or mutation; that is to say, that (a) children of the same parents tend to be similar to their parents and to each other in body and mind, and that (b) they tend to be dissimilar also, quite often. The old words are *Janma* and *Karma*; also *Yoni* and *Tapas*.

The *Psychological principle* is that the mind has three main functions; that one tends to predominate in every individual; that, accordingly, ‘dwi-ja’, twice-born, re-generate, i.e., educated and cultured persons, “who have been born a second time, i.e., into the world of introspection and moral self-consciousness”—such persons tend to fall into one or another

[Dr. Bhagavan Das.]

of three broad types or classes, (a) men of knowledge, (b) men of action, (c) men of acquisitive desire; and that there is a residual fourth type, composed of the comparatively uneducable child-minds, who become (d) the men of unskilled or little-skilled labour. Another *Psychological principle* involved is that the man of knowledge finds his greatest heart-satisfaction and best incentive to good work in affectionate honour, *sammana*, *izzat*, most; the man of action desires executive power and official authority, *ajna-shakti*, *aishvarya*, *adhikara*, *hukumat*, most; the man of acquisitive desire loves wealth, *dhana*, *daulat*, most; the man of labour wants play and amusement and holidays, *krida*, *vinoda*, *tafrih*, *khel-tamasha*, most. It has to be borne in mind carefully that even four uterine brothers, children of the same parents, may, and quite often do, belong to the four, or to three, or two, different types, by the law of spontaneous mutation; or they may, and often do, all belong to only one of the four types, by the law of heredity:

“*Na vishesh-osti varnanam
sarvam Brahmanam idam jagat,*

*Brahmana purva-srishtam hi,
karmabhiv-varnatam gatam.*”

(*Mbh*, *Shanti*, ch. 186).

“All four classes or types are born from the same Creator’s body; hence are brothers; but are differentiated into classes by their different temperaments and occupations”.

Another important *Psychological principle* is that carnal, sensual, sex-passion is naturally transmuted and sublimated into spiritual affection and self-denying sense of responsibility and duty, by the birth of children in wed-lock—though, of course, excess as in other matters so of children, beyond the parents’ power to bring up healthily, is disastrous; and that if the birth of all children, of even a single child, is deliberately avoided, in order to avoid all self-denying responsibility, and only snatch sense-pleasures, then that carnal passion invariably becomes a lurid fire of ever-increasing selfishness which inevitably destroys all conjugal love and happiness soon rather than late, and leads to vices and crimes and social disturbances of all sorts. Hence the recommendation and eulogy of the “house-holder order” as the best, because it is the nourisher of all others; and at the same time deprecation of excessive progenition. (Manu, iii, 77, 78; vi, 89, 90; ix, 107).

Hence also the insistence that the Family is the unit of Society, and not the Individual—a principle of very far-reaching consequence.

“*Etavan eva purushah
Yaj-jaya-tma praj-eti ha.*” (Manu, ix. 45).

“The father, the mother, the child—these three together make up the complete human being; the man is not the man alone, but the man, the woman, and the child.”

The modern tendency is to regard the individual as such unit. Individualism at one end, nationalism at the other end, is the modern ideal. Familism at one end, humanism at the other, is the ancient. When the

family is regarded as the unit, and father, mother, and child are regarded as permanently bound together, the natural consequence of paternal and maternal relationships stretching endlessly, in the past and the future, is that the whole of society is seen to be not only psychologically but also biologically bound together and made co-operative, literally flesh of the same flesh and spirit of the same spirit. The bonds of commensality and connubium, 'anna-sambandha' and 'yauna-sambandha', constitute the 'prana-sambandha', the biological vital bonds, between human beings. But when the individual is regarded as a free unit, his connection with the group amidst which he lives becomes only wilful, competitive, and therefore more fragile than cohesive. Hence we see the violent hatreds between individuals, as well as the nations composed of such individuals, which pervade the whole human atmosphere today, conflicts between not only nation and nation, but within each nation, between rich and poor, ruler and ruled, strong and weak, and—climax of discord—between man and woman, parent and child, old and young.

The *Economic principle* is that, to avoid or at least minimise the evils of unregulated frantic competition, human beings should, where the law of heredity is at all clearly manifest in their psycho-physical temperament and constitution, follow the hereditary occupation: but that when the law of spontaneous variation predominantly asserts itself in any individual, he should be allowed to take up the corresponding and appropriate bread-winning profession and vocational class-name, and not be permitted to take up any other in addition, for making money. Thus each human being would be able to do the best, of which he is capable, in the way of service of the Social Whole, and would receive from society, an appropriate remuneration and livelihood, and there would be an equitable distribution of work and wealth and leisure, because no person would be allowed to make money by more than one means of livelihood, nor beyond certain limits.

The *Sociological principle* is that, as a single human body consists of head, arms, trunk, and all-supporting legs, as a single human mind is made of stores of knowledge, of desires, of volitions, and of simple vitality, so the Social Organism, i.e., every complete, well evolved, advanced, civilised society, consists of four main broadly distinguishable vocational classes, (a) the learned professions, (b) the executive professions, (c) the business professions, (d) the labouring or industrial professions. Different rights and different corresponding duties, different kinds of work and different kinds of livelihood, different labours and different wages and rewards, different functions and different prizes of life, viz., honour, power, wealth, and play, should be equitably partitioned between the four classes, according to the four temperaments, and none allowed to encroach upon those (especially the means of livelihood) of any other, or to adulterate two or three or all four in any single group or individual. Of course, there are numerous subordinate varieties included under each of the four main types of occupation. The Veda-verses, referred to before, expressly enunciate the correspondence of the vocational or functional classes, which make up the Social Organism, with the members or limbs, discharging separate functions, of the individual organism. The wise Sheikh Sadi, echoing the same thought, though without specification, has said: "Bani Adam azae yak digar and, Ke dar afrinish ze yak Jauhar and," "The children of Adam are all as limbs and organs of each other, since they are all born from the same Spiritual Essence."

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Yet another *Sociological principle* of vital importance is that each individual life should be broadly divided into four stages; the first part to be devoted to study, the second to the household and bread-winning and bringing up of children, the third to unremunerated honorary public service, and the last to spiritual exercises and meditation; and that individualist egoism should be allowed to have regulated play in the first two parts, while socialist altruism should prevail ever more and more in the last two. This principle is the basis of what is known as the Ashrama-dharma, the planning out of the individual life, which is the inseparable complement of the Varna-dharma, the planning out of the social life, even as the warp is the inseparable complement of the woof.

If the third stage, with its order of persons retired from competitive bread-winning, full of mature experience, looking with benevolent and peaceful eyes upon the world generally and the younger generation specially, really honourable and honoured, always available for honorary public work in the elective committees, boards, legislatures—if this stage and order were duly revived, the sordid selfishnesses and corruptions that are to be seen today in the ranks of even the elective and honorary workers would be abolished, and, by the moral influence of their good example, would be minimised in the ranks of the salaried public servants where they are far more rampant.

The *Political principle* is that the four vocational classes should form separate but interdependent guilds; that a balance of power should be maintained between them all; and that Science-power, Military-power, Bread-and-Money-power, and Labour-power must not all become concentrated in any single group or individual; because, from such combination of several powers in the same hands, there inevitably result despotic megalomania and tyrannical misuse of unrestrained power. The Educator, the Protector-Soldier, the Feeder, the Helper, each should keep to his respective sphere, and not wish to get any other under his thumb, much less his heel.

The *Educational principle* is that each and every child, who is at all educable, should be given, together with the elements of general culture, also special training for the vocation for which he possesses special aptitude, which aptitude should be carefully ascertained by his educators.

The *Hygienic and Eugenic and Sexological principle* is that every possible care and caution should be exercised, and all possible cleanness and purity secured, in respect of food and marriage, and that persons with similarity of tastes and habits and parity of temperaments should dine together, and marry together, so that individual and racial health and happiness may be promoted.

On the basis of these principles, which are all inter-dependent, was built up the old Social Structure. In it, every individual would necessarily belong, not by rigid heredity, but by his particular temperament and aptitude, to one or another of the four main vocational classes. Under these four main classes of vocations, all the countless occupations of man can be broadly grouped and classified, and every man can readily find and fit into his proper position in the Social Whole, and make a reasonable living without being a burden on or a danger to society.

Such was the original Varna-Ashrama-Dharma or Varna-Ashrama-Vyavastha. Into it were unceasingly absorbed, and thereby organised and civilised, the thousands of tribes of India, in past ages. It could, and did, in the earlier centuries of the history of India, include, absorb, assimilate, persons of any race, nation, country, creed, without disturbing their creed or nationality or mother-tongue. Even today, as a patent fact, we have Punjabi, Marwari, Awadhi, Madhya-deshi, Bengali, Madrasi, Maratha, Gujrati, and Balinese (in the Bali Island), Brahmanas, Kshattriyas, Vaishyas, Shudras; and each of these groups includes persons who belong to the Vaishnava or the Shakta or the Shaiva or any one of scores of other faiths and sects, and speaking all sorts of languages.

In the fundamental principles of the original system there is to be found no reason against, and every reason for, classifying each of the many peoples of the earth, Chinese, Japanese, Irani, Arabian, French, Russian, German, British, as well as Indian, and whether Hindu or Parsi or Christian or Muslim or Jew or other, into the same four vocational groups or professions. And in fact, every civilised people actually does possess these four main broad classes or professions, though they are not so deliberately recognised and so systematically organised, with careful partitioning of functions and remunerations, as seems to have been done in ancient India.

Even the Russian Soviet has instinctively named itself the Peasants', Soldiers', and Workers', *i.e.* Intellectual Workers' and Manual Workers', Soviet Republic. Even in Britain the four estates of the realm are the Clergy, the Nobility, the Commons, the Laborites. Even the Quran speaks of the men of *Ilm*, the men of *Amr*, and the *Zurra*, with the fourth type of *Mazdur* understood.

It has been remarked by outside observers that it is impossible to say what exactly Hinduism is. Indeed, there is not one single belief, and not one single custom, which can be said to be the invariable, distinctive, differentiating characteristic of Hinduism and the Hindu. No doubt, Hinduism includes the Essentials of Universal Religion in common with all the other great religions of man; but, besides these, almost every one of all the customs and practices, the beliefs and philosophies, lowest to highest, crudest to most refined, that can be found in any part of the world, will be found prevailing in some section or another of the Hindus. Christianity has hundreds of sects, but the belief in Christ seems to be indispensable to all, though there is much dispute between the sects as to the nature and the status of Christ. Islam has scores of sects, but the belief in Muhammad seems necessary for all, though, I am told, some sects do not consider the second part of the *kalema* of faith as essential and indispensable, and regard Muhammad as one of many prophets sent by God to help humanity on earth.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): There is no Muslim who believes in this.

Dr. Bhagavan Das: I have been told so. I am not an Arabic scholar, and I cannot read the Quran in the original.

Sir Muhammad Yamin Khan: It is essential for a Muslim to believe in both the parts of the *kalema*, namely, *La ilaha illallah* and *Muhammad-ur-Rasulullah*.

Dr. Bhagavan Das: I have heard what I have said, from a Muslim Sufi friend, and have not invented it from my own imagination.

Sir Muhammad Yamin Khan: Those who do not believe in the second part of the *kalema* cannot be called Muslims.

Dr. Bhagavan Das: For the Hindu, belief in no one such person and no one form or name of Deity is absolutely necessary. But acknowledgment, conscious or unconscious, implicit or explicit, vague or clear, of being included, however lightly or loosely, within the pale of the Varn-Ashrama Scheme of Social Organisation, and willingness to be designated as Hindu, may be regarded, if anything can be, as the characteristic of the Hindu. Indeed, the word Hindu is not to be found in the old books at all. The Dharma-shastra words are Manushya, Manava, Nara, which all mean simply "man". The first two words are indeed etymologically the same as "man". It is true that the words Arya, on the one hand, and the contrasted words An-arya, Vrishala, Mlechha, Dasyu, on the other, also appear in the Shastra; but they only mean 'civilised', on the one hand, and 'uncivilised, de-civilised, barbarous, savage', on the other, respectively. The appearance of the word 'Hindu', in its present sense, is coeval with the beginning, towards the close of the seventh century A.C., of the disease of excessive sub-division and mutual exclusiveness, which has been slowly, and is now more and more rapidly, sapping the life of that Society which it now names.

The word really should mean, and originally did mean, Hind-i, *i.e.*, inhabitant of Hind or India, which two names were given to this land by the ancient Persians and Greeks, respectively, because of the river and the province named Sindhu. Indian Musalmans, travelling in the near west, are called Hind-i there, quite rightly.

Such a view of the caste system reconciles and illuminates all the five or six views, tribal, religious, occupational, etc., which have been propounded so far, as to the origin of the system, and at the same time gives to it a great scientific and practical value, by distinguishing between psychological-vocational *varnas* and biological *jatis*, and by grouping individuals, whatever their *jati*, into *varnas*, according to their vocational temperament and actual occupation.

After this brief sketch of the nature, the purpose, and the fundamental principles of the so-called caste-system, I hope that what more I have to say, with regard to this Bill, may not be so obscure as it may otherwise have been.

The partitioning of the means of livelihood deserves special notice. As every individual was assigned to one or another of the four great guilds, of Educators, Protectors, Tradesmen, and Workmen, so every individual was expected to earn his living by only those means of livelihood which were assigned to his class; he was not allowed to make money by the ways and means set apart for any other class, and even the businessman, who was permitted to gather wealth, was not allowed to accumulate it beyond certain limits, and was moreover induced by social pressure to hold and use it as a trustee for social good. Equitable distribution of wealth was secured in this way, as well as scope for play of individual tastes, by the old Social Organisation. In all other respects also, under the constant guidance of the few vital fundamental principles stated

before, it made the best possible reconciliations between the egoistic and the altruistic tendencies of the human being, the wisest compromises between the rival claims of individualism and socialism, the most practical solutions of all the problems that perpetually beset Humanity.

Combining *varna-dharma* and *ashrama-dharma* organisation of the social and of the individual life, it reconciled all 'isms', by avoiding the one *ism* of extremism; it made the best possible adjustments between all the pairs of the opposed needs of man, by giving to each its due and not more than due; it provided sufficiently, and not more than sufficiently, for healthy wholesome recreation as well as procreation, within the family life; it gave reasonable opportunity and scope for all sorts of temperaments. It made practicable the noble ideal of the Federation of the World and the Parliament of Man.

This ancient class system of India seems, in known history, to be the first attempt made by the Human Race, and the only complete one, until the as yet very imperfect Russian effort, (with the possible exception of the Peruvian state-socialism of the twelfth to the fifteenth centuries A.C.), to plan out individual and social life deliberately and systematically, in accordance with the laws and facts of human nature, some of which the Russian effort is ignoring perilously, as said before.

Further exposition of this large subject is not possible here. But this, all too insufficient, outline of it was unavoidable. It is the neglect of the fundamental principles underlying Varna-Vyavastha, the distortion and misinterpretation of them, the excessive exaggeration of the principle of heredity, the grabbing of all rights and shirking of all duties by the strong and the cunning, which has brought about the degeneration of the vocational class-system into the current caricature of it, in the shape of some 3,000 mutually repellent castes and sub-castes, and, among many other evils, has given rise to those difficulties regarding marriage, which force us to feel the necessity for new legislation, in the form of this Bill.

The Bill is a purely permissive measure, based on the sound and simple maxim, "Live and let live". If passed into Law, it will help to check the internal corruptive and disruptive decay that has set in in the Hindu community. It will soften that spirit of hard internal and external exclusiveness which is the most prominent and most dangerous disease-symptom of that community today. It will promote friendly relations with sister-communities also, by sweetening the whole spirit of Hinduism. It will make unnecessary, and thereby prevent, a considerable amount of hypocrisy and fraud in marriage negotiations, and kidnapping and sale of marriageable girls and women, which, as is well-known, are being practised in several parts of the country, for the purpose of supplying wives to various sub-castes which are short of women for various reasons. One of these reasons has been, in the recent past, the well-known infanticide of girl babies, among some sub-castes. This infanticide has diminished apparently; but, from the nature of the crime and the ease with which it may be committed without detection, it is by no means possible to say that it has been extinguished. The present Bill will indirectly help to make such crime unnecessary, also. It will help to shift marriage-conventions from the basis, on which they now stand, of superstition, which is belief *without* reason (*dharm-abhasa*, *mithya-dharma*, *murha-graha*, in this case, belief in the potency of the mere hereditary caste-name) to the basis

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of science, which is belief *with* reason (*veda-dharma*, in this case, psychophysical eugenic science). As the old books say, "He only can understand and work the law rightly who studies it in the light of its objects and reasons":

"*Hetubhir dharmam-anvichchen
na lokam virasam charet.*" (*Mbh., Shanti, ch. 268*).

"*Yas tarken-anusandhatte
sa dharmam veda n-etarah.*" (*Manu, xii, 106*).

It will compel no one to contract a marriage outside his caste or sub-caste, but it will save any one who may make such a marriage from being hounded out of caste publicly. It will bind no one against his or her will to enter into or keep up any social relations with any one who has contracted such a marriage, but it will prevent any one, on pain of being held guilty of defamation, from making any public proclamation that such a person has lost caste and is not worthy to be associated with, because he or she has contracted such a marriage.

Some other important advantages that would accrue are, (a) that the method of co-education, which is growing steadily in the country under the pressure of the new conditions, would lead to many happy marriages instead of acts of error and shame, and soiling of mind and body, and, now and then, life-long nervous disorders, (b) that the suicides of girls, and other evils, now often caused by the growing practice of demanding very large cash-dowries—a practice born of economic distress, on the one hand, and, on the other, of the mammonist spirit fostered by the new civilisation—such evils would also be checked by the growth of free choice of each other by educated youth and maid, without irrational limitation to the same caste-name. It will make clear and firm the legal status, now doubtful, of hundreds of persons who have entered into inter-caste marriages, by the usual Hindu rites and ceremonies, and not under the Special Marriage Acts. It will bring great relief to many small sections of Hindus which are experiencing very serious difficulties in arranging marriages within caste or sub-caste; and also to those who wish to contract such marriages without being bound by the conditions of the Special Marriage Acts.

Finally, I am profoundly convinced, far from *infringing* any essential principle of Dharma and any fundamental commandments of
12 Noon. Dharma-shastra, it will help greatly to *restore* to what is now called "Hindu Society", but should be called "Manava Samaj" or "Human Society", those most valuable principles of social life and organisation, which that society has gradually forgotten and lost in the course of the centuries.

For those who attach great value to the word of the Dharma-Shastra—and so do I, most reverently, provided the writing be genuinely ancient, belonging to the times when the Indians were a self-governing people, and provided its word be rightly interpreted in accordance with the rules of that Science of Exegesis (*Nirukta* and *Mimamsa*) which is essential part of the Dharma-Shastra—for such persons, sufficient support can be found even in those Scriptures, especially the Puranas, for such inter-caste marriages. It would probably tire my Honourable colleagues if I

read out many Sanskrit texts. Therefore, I do not. But I have had a large sheet of Sanskrit texts, with translation in Hindustani, printed, and I shall be happy to supply copies to any Members who may desire them. For those who rely more on reason and common sense, scarcely any argument is needed.

It should be noted particularly that the Bill does not force any person to enter into such a marriage. It only preserves intact to those, who may enter into it, all their former social status and religious and legal rights and duties as Hindus, saves them from being more or less completely cut off from such of their kith and kin as may be desirous of keeping up social relations with them, and retains for the community their services, which may, in some cases, be very valuable.

It should also be borne in mind that, in any case, there would not be many such marriages. In far the large majority of cases, persons and families would continue to seek alliances within their respective familiar and accustomed groups. The inter-caste marriages, to be validated by this Bill, would only be, comparatively the exceptions which prove the rule; but very useful and desirable exceptions they would be.

The word 'caste' in the Bill includes also, *ipso facto*, what in English are called sub-castes. The Hindustani words "zat, jat, jati", include both castes and sub-castes. To the current orthodox view, marriages between person belonging to two different castes or two different sub-castes are, equally, *a-savarna-vivaha*, or 'intercaste' marriage, and, by custom, both kinds are invalid, with some exceptions. Yet the Pandit, learned in Sanskrit lore, would find it impossible to say, on the strength of the letter of the Dharma-shastra, that the marriage of persons of two different sub-castes of the same main caste was invalid. Indeed he would find it impossible to justify the existence of most of these sub-castes, whose names are not to be found at all in the old books. In practice, what may be regarded technically as sub-castes, are regarded by the Hindu public as independent castes. Indeed, the sub-castes of the three twice-born castes, taken all together, do not number more than a few scores, by the census tables. But the two thousand and more other castes of the census, which may be regarded as sub-castes of the fourth main caste, the once-born, all regard each other, not as such sub-castes, but as independent castes. As regards the twice-born castes, the Privy Council has recently decided also, expressly on the 28th April, 1936, that inter-sub-caste marriages are valid, among them (Gopi Krishna *vs.* Sri Krishna).

I have, on a previous occasion, put before the House, the view, that *varna* means occupation, which view is held by a class of orientalisks, both Eastern and Western, which is steadily increasing in numbers daily.

But there are those who continue to believe that *varna* is a thing inherently hereditary, like *gotra*. *Gotra* is much the same as the Roman *gens* or the Scottish *clan*, or the Arab *Qabila*, or the Afghan *Khel* or *Zai*. The families of men supposed to be descended from a legendary common male ancestor constitute a *gotra*. *Gotra* is thus patently biological, and matter of heredity. But, by a legal or theological fiction, the girl changes her *gotra* for that of her husband at marriage. Now, if indisputably hereditary *gotra* can be thus changed by the bride, why may not the *varna*, the heredity of which is not at all so patent, be similarly changed? There is also the fact that some of the *gotras* are common

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to all the three 'twice-born' *varnas*, which means that the descendants of the same male ancestor could and did diverge into different *varnas*, in ancient theory and practice. I submit these facts, for reflection, to those who believe that *varna* is hereditary, over and above the fact that the Vedas and the Puranas expressly mention cases of members of the same family being of different *varnas*, and also of individuals and whole groups changing from one *varna* to another. This process is taking place even today. Many small groups, which were formerly regarded as Shudras, are now beginning to call themselves Brahmanas, or Kshatriyas, or Vaishyas. The phenomenon is the same in essence as, in western words, would be called 'rising in the social scale'. The latest Census Report, for 1931, mentions also other sorts of amalgamations of and changes in the minor castes or sub-castes, which are going on, and because of which the work of exact enumeration of sub-castes has become so perplexing that the Census authorities had to give it up altogether.

I may mention here a case which I suppose most of us have read about, in the papers the other day. It is the case of Dr. James Cousins, a good friend of mine, a very learned man, a poet of very high quality in the English language, and Principal of the Madanapalle College in the Madras Presidency, who formally embraced Hinduism in Travancore; and the *ex-Shankaracharya* of Karwir Muth, or Karwir Peeth, Dr. Kurtkoti, in his presidential address which he delivered in October last at Lahore.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): He is not Shankaracharya.

Dr. Bhagavan Das: I said *ex-Shankaracharya*. He is not now. He was for some time Shankaracharya, but he has been unseated and he is now living in Nasik as Dr. Kurtkoti. He was made the President of the Hindu Sabha Conference at Lahore notwithstanding the fact that he had been ousted from the *Gaddi*.

Babu Baijnath Bajoria: Karwir Muth is not a seat for Shankaracharya at all.

Dr. Bhagavan Das: I may be mistaken; I am willing to be corrected. But I believe that it is not I, but Babu Baijnath Bajoria who is mistaken in this matter. The new Shankaracharya of Sankeshwar-Karwir Peeth has sent an opinion against my Bill and containing personal attacks on me and other supporters and sympathisers. Anyway, this was in the papers that in the address which Dr. Kurtkoti gave at Lahore he mentioned the fact that he had converted to Hinduism a number of persons who were not even Indians. Among them, if I remember rightly, he mentioned the name of Miss Miller, who was married to the *ex-Maharaja* of Indore, and she is now named Sharmistha Devi after being Hinduised. The simple solution of all such difficulties and perplexities is that, since *jati* is ethnical and *varna* professional, every person should give himself, individually, only that *varna*-name which corresponds with his profession.

This is the way in which Hindu Society can shift the basis of caste-class from hereditary caste-name to actual occupation and means of living, and reconstruct itself scientifically.

In the meanwhile, a 'practical' question may be answered 'practically'. Persons ask, "What will be the caste of the woman, born in one caste, who married a man of another caste, and what will be the caste of her children?" The obvious answer is that "As she will change her *gotra*, so will she change her caste also, for that of her husband, and the children of the two will belong to the caste of the father, for all purposes of Hindu rites and ceremonies and Hindu personal law."

Human especially feminine instinct-intuition, as much as masculine pedestrian reason, requires this. As in the west, the wife of a king automatically becomes a queen, an emperor an empress, a duke a duchess, etc., though she may be a peasant's or a clergyman's or a soldier's daughter; and as Miss Carter on marrying Mr. Porter automatically becomes Mrs. Porter and ceases to be Miss Carter, and Miss Tyler becomes Mrs. Stoker; even so, the women, at least in the United Provinces, call the wife of a tahsildar as tahsildarin, a kotwal as kotwalin, a seth as sethani, a raja as rani, a pandit as panditani, a thakur as thakurani, a panda as pandain, a doctor as daktarni, a subadar as subadarin, a risaldar as risaldarin, a jamadar as jamadarin, a hira-tarash as hira-tarashin, a churi-hara as churi-harin, and so forth. "What the husband is, that same is the wife"—such is the injunction of the primal Law-giver of India, Manu. Whatever, then, the *varna* of the man, that same must become the *varna* of the woman whom he marries and who marries him.

I have purposely mentioned words which are not the names of recognised and fixed castes or sub-castes having already well-known feminine as well as masculine forms. The words that I have mentioned help to confirm the view that many of the older caste-names were also occupational names originally, while some were formed from the name of the locality which was the first habitat of the tribe, and others from the name of the legendary primal ancestor. I understand that in the French language, a practising lady-doctor is called a doctresse. I do not know if they have barristresses also, but I believe they have prosecutrixes. Any way, all the really ancient traditions and the genius of the Indian people require that the woman whom a man marries should take on his *varna* in the same way as she takes on his *gotra*.

In bringing forward this Bill, I am indeed not suggesting any new-fangled innovation, but am proposing what I sincerely believe to have been the custom and practice in the ancient, happier, more life-full, and more vigorous days of the Indian people, before the seventh century A. C.

Always, in all departments of human life, the one and only problem is how to adjust and reconcile opposites, egoism and altruism, the wishes of each individual and the requirements of all other individuals, *laissez faire* and regulative interference, King Log and King Stork, mob-rule anarchy and autocratic, despotic, dictatorial monarchy, the law of the jungle and military regimentation. In the department of sex-love and marriage, the tremendous output of literature on the subject, in the west, within the last two or three decades, all seems to ring endless changes on, and to advocate the one or the other of the two opposed answers to, but this one single problem, *viz.*, how to reconcile self-seeking carnal passion and wilful self-indulgence and changing personal likes and dislikes, on the one hand, with, on the other hand, the other-seeking, unselfish, permanent, spiritual affections that are meant by the words 'home' and 'family',

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the needs of the new generation, and the requirements of social organisation and stability; how to reconcile self-seeking recreation and duty, involving procreation, in short, as is the latest phrasing for the oldest ideas *viz.*, *dampati-rati* and *santati-priti*.

Wise statesmanship consists in regulating the swing of the pendulum between the two extremes, in every department of national life—and all are inter-related, and the family-life is the centre of them all, ultimately—in such a way that that pendulum may not run so very far from the middle-point, on any one side, as to over-balance and overturn the whole clock.

The institution of marriage is undergoing, in the west, what is described as a sexual and moral revolution. This is proceeding side by side with corresponding and closely connected revolutionary changes in the other institutions of society, so far regarded as fundamental, *viz.*, economic and industrial, political, religious and educational; for politics is rooted in economics, that in 'domestics' and psycho-physics, those in pedagogics; and the pros and cons of the same two eternally opposed sets of extreme views are being threshed to pieces in endless pages of print, in the case of each. There is much straining to discover original terms and phrases, much variety of angles of vision, much fine speaking and writing, but the essential pairs of opposed views are the same as ever.

Even Soviet Russia, which has made the greatest of revolutions known to history so far, with immense agony and bloodshed, is coming back, by all available report, (I have no first hand knowledge of Russia, never having gone there), after less than two decades of brave experimenting, and more brave admission of mistakes, to the possession of private property, but regulated and equitable; to the toleration of religion, but not the tyranny of priestcraft; to the permanent union of husband and wife, but not the enslaving of either by the other.

Rigidity in the matter of banning all inter-caste marriage has gone much too far in India, and is provoking a rebellion in the educated and therefore more influential, active, and effective sections. If this rebellion is not allayed by wise and gentle handling and timely concession, it will create great confusion in Hindu society shortly and hasten its disruption. "The string o'er-stretched breaks." Inter-caste marriages are multiplying under the pressure of the conditions of education, travel, bread-winning; and persons often wander far and work for long periods at long distances from their original homes, and the married pairs are being more or less cut off from their kith and kin and their old normal and natural relationships. They are bound to produce, in the body politic, the baneful effect which is always produced by unassimilated and therefore antagonistic foreign bodies in a diseased and devitalised organism, unless effective means are devised, such as this Bill proposes, to integrate them back into their proper place in the Social Whole.

Some persons think that if inter-caste marriages are allowed, "purity of race" will be lost. I would respectfully submit to such persons, that "purity of race" is evidenced only by characteristic typical physical, mental, and moral features. Now, at the present time, all sorts of physical, mental, moral features, characters, complexions, good and bad, dark and brown and yellow and red and pink and white, are patently to be seen im

every so-called "caste". The unavoidable inference is that "purity of race" has become wholly imaginary. I venture to submit that discriminate, wise, well-matched inter-caste marriages, of the physically, morally, and mentally refined and cultured with the similarly cultured, marriages between persons of similar tastes and temperaments, will help to re-establish the lost "purity of race", and gradually re-create a really good and true *varna-vyavastha*, or class-caste system, in which each family will inherit and carry forward traditions which would be socially as well as individually good and useful.

That there are four main psycho-physical temperaments and four main broad corresponding classes of vocations, is borne out by western, and is expressly asserted by eastern, psychological science; that all persons bearing the same caste-name, or that even all uterine brothers and sisters have necessarily the same temperament and vocational aptitude, is a superstition which is exploded by the slightest touch of observation.

When two persons, young man and young woman, have been born and brought up in two families of similar personal habits, ways of living, and breadwinning occupations, the indication is, and the presumption may well be, that their psycho-physical temperaments will not be disparate, will not conflict, this is the element of science in the sentiment for caste-endogamy or *sa-varna-vivaha*. To insist that because two persons have been born in two families bearing different caste-names, therefore there cannot be parity of temperament between them—this is the element of superstition, in the present conditions, when caste-name is no more any index at all to personal habits, ways of living, and occupation.

Indeed, *sa-varna-vivaha* means marriage of persons having compatible dispositions and personal habits and similar occupational, intellectual, and emotional interests and tastes. It does not mean mere sameness of caste-name. By a too common error of the human mind, Hindus have been placing the cart before the horse, the form before the spirit, mistaking cause for effect, and effect for cause. The natural sequence is: congenital vocational temperament, thence appropriate education and occupation, thence class-designation; in the words of that world-famous scripture, the *Gita*, *sva-bhava*, thence *guna*, thence *karma*.

"*Chatur-varnyam Maya srishtam
Guna-karma-vibhagashah;
Karmani pravibhaktani
Sva-bhava-prabhavair gunaih.*" (*Gita*.)

"The four *varnas*, classes, have been created by division of temperaments and vocations; and vocations have been divided according to congenital temperaments".

We have inverted this order into: hereditary caste-name, thence occupation, thence temperament: that is to say, because a person has a hereditary caste-name, therefore he has capacity for the occupation indicated by it, and because he has taken up the occupation therefore he has the appropriate temperament. The necessary consequence of this inversion of the natural order of things is endless misfits and divergences between temperaments and occupations and caste-names, the *reductio ad absurdum* of the caste-system to mere avoidance of inter-caste dining and inter-caste

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marriage, the contraction of very many marriages which are nominally *sa-varna* but really and scientifically quite *a-sa-varna*, and that general confusion of occupations and dis-organisation of society which is the real meaning of the Sanskrit word *varna-sankara*.

Closely allied, or rather integrally connected, with this question of inter-caste marriage is the problem of untouchability. It should be borne in mind that there are some two thousand 'castes' of Harijans, that these cannot inter-dine or inter-marry, even amongst themselves, what to say with the so-called higher castes; and that my Bill, if passed into law, would help them also greatly. Untouchability obviously attaches to dirt, and not to any human being as such. That persons in an unclean condition, or suffering from contagious or infectious diseases, should not be touched, except when necessary to do so in order to help them—this is clearly the element of science in the orthodox sentiment on the subject. That a person, however clean and healthy, is untouchable simply because he bears the caste-designation (in Britain, the family-name) of Skinner or Tanner or Fowler or Fisher or Hunter or Butcher (Chamar, Bahelia, Machhua, Byadha)—this is the element of superstition.

But, indeed, no one should bear a name which indicates an occupation which he does not follow. The problem of the depressed classes or Harijans, which is now agitating the country so greatly, would be solved in a moment if they would only resolve to give up the thousands of petty caste-names to which they are now clinging, and call themselves by the name of one or another of the four main occupational caste-names, under which their particular occupations may fall as sub-varieties; also such of them as pursue occupations involving contact with dirt must learn, and must be taught and given opportunities, to wash themselves clean, after their day's work. Such is the simple solution of the whole problem, but because the spirit, the will, the clear realisation of the method, are lacking, therefore the simple has become exceedingly difficult.

It is a weakness in human nature, all over the world, and in all departments of life, to forget the spirit which giveth life and hold fast to the letter which killeth, to cling to the chaff and fling away the grain. This weakness has to be struggled against with perpetual vigilance.

I have heard from an English friend, that when the fact of the transmission of contagious disease through germs clinging to unwashed human hands was first discovered, many decades ago, scientific men suggested that the flour and other material, for bread and other foods, should not be kneaded, or otherwise touched, by human hands, and it became the fashion for makers of bread and tinned foods, to advertise their goods with the label, "Untouched by hand". This English friend, out of curiosity to find out in what other ways the requisite processes were performed, looked in a factory, and saw men kneading the dough with their feet! The doctors had advised that it should not be touched by hand; they had said nothing against the feet!

Where there is lack of intelligence, or self-righteousness instead of righteousness, or wish to evade and deceive, or to grasp rights and shirk duties, there such grievous perverseness of interpretation and of conduct always appears.

The fate of the caste-system has been such. All the fundamental principles of the vocational class system have been forgotten. The clever man seeks today to grab all the honour, also all the official power and authority, also all the money, and also all the amusement, that may be available; in short, he tries, and succeeds, to grasp all rights and shirk all corresponding duties as far as possible; and from this general grab and scramble and *varna-sankara*, this dis-organisation and confusion of vocations and remunerations, there results the universal turmoil in the human world, and the special degeneracy of the Indian people, and of the Hindus particularly. That which was intended to be a force for integration and union, has become the source of disintegration and division. The blessing has turned into a curse.

The unregulated spirit of individualism is the root-cause of political, self-determinist, nationalist, provincialist, fissiparousness, as much as it is of caste-fissiparousness. When the spirit goes wrong; everything goes wrong. If we could restore to the so-called caste-system its true old occupational basis, and if we could attach and confine honour and power firmly to only wisdom and self-denial and public spirit, and separate them from luxury and the hoarding of wealth, as the old social organisation or *varna-dharma* does, then indeed the spirit of excessive individualism and mammonism and all other related wrong *isms*, which are perverting the glories of the new scientific civilisation into the horrors of scientific hate and oppression and butchery, would be converted and transmuted into humanism, and all our problems would be solved of themselves; for when the spirit is right, as it would be, if we separate honour and power from luxury and wealth, then everything comes right.

The heads of caste and sub-caste *Panchayats* today have forgotten their duties of helping and serving their caste-men, within their respective ranges, and have been trying only to taste power, by excommunicating persons who go against their notions of what is right in matters of dining and marrying and touching, and by 'selling indulgences' like medieval priests. Power has come to mean everywhere power to hurt and not to help.

But good signs are not lacking altogether. The superstition, in respect of inter-dining, has largely disappeared, except perhaps in Southern India, among those who have received the new education, and is further disappearing under the pressure of the changing conditions of life, particularly of travel for the sake of business and pleasure. The superstition in respect of untouchability is also crumbling, but its dissolution requires to be facilitated by legislation, because of various sorts of alleged vested rights; and by the widespread inculcation of the fact that untouchability attaches to uncleanness and not to any human being as such. The superstition against inter-caste marriage is the strongest, and since legal rights and questions of personal law are involved, the help of special legislation, such as this Bill proposes, is indispensable to replace it by that wisdom, which is science *plus* philanthropy, and which should be the parent of law.

If we were to seek for one comprehensive principle of common sense as well as science, which would dissolve all these three superstitions simultaneously, and solve all the innumerable difficulties caused by them, we would find it ready given to us in one brief well-known Sanskrit maxim:

“*Samāna-shīla-vyasaneshu sakhyaṃ.*”

“Companionship is best and most successful among those who have similar or compatible temperaments and habits.”

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I will now refer to some criticisms and suggestions. It has been said that this Bill is not needed because the Special Marriage Act of 1928 meets all requirements:

But that law imposes various conditions, which are not acceptable to many persons who are desirous of contracting inter-caste marriages. Under that law, they would become automatically severed from the joint family to which they may belong, even though the other members may not desire such severance; they would perforce come under the Indian Succession Act and lose their personal Hindu law;

Mr. Lalchand Navalral: (Sind: Non-Muhammadian Rural): Dr. Deshmukh does not want the Hindu joint family to live.

Dr. Bhagavan Das: Then he will be at liberty to take advantage of the Special Marriage Act. I do not think he is desirous of contracting another marriage.

They would lose the right of adoption; their children would lose certain rights of inheritance; the Divorce law would apply to them. Those who feel no objection to the acceptance of such conditions, may and will certainly utilise those laws. But in the interests of those who feel conscientious objections to acting under them, the simple Bill which I have presented to the Assembly, deserves to be passed into law. It harms no one, in any way; it helps many, in many ways. If the leaders of the various sections of the Hindus give their support to it, it will initiate the restoration to health, of the Hindus directly, and of the rest of the Indian people indirectly, by the purification and strengthening of the biological and psychological bonds between all.

One positive suggestion which has been made, is important. All the Women's Associations of the country, including such very influential ones as the All-India Women's Conference, and the Women's Indian Association of which the Maharani of Travancore is the President, have given public support to this Bill, but have all pressed for the addition of a provision that all such inter-caste marriages must be monogamous. Some Governors of Provinces, and some High Court Judges, and many non-official men's associations and prominent individual men also have pointed out the need for such a provision. I trust that the necessary addition will be made by the Select Committee.

From the Opinions collected by the Central Government, I am very happy to see that seven of the Provincial Governments have expressed themselves in favour of the Bill, seven advise that the Central Government should remain neutral and leave the Hindus to decide, one or two are doubtful, and only one, that of Bengal, has expressed itself against it. Of the High Courts, those of Bengal and Burma are neutral; of the others, 21 Judges are definitely in favour of it, 6 are against. Of the executive District officers and the District and Sessions Judges and the Bar Associations and individual leading lawyers who were consulted, and who are in intimate touch with the public and in a very good position to judge of such matters, far the larger number are in favour of the Bill; as also are many other public associations, among which may be prominently mentioned the United Provinces Liberal Association. Heads of particular religious sects, and several associations like Sanatana Dharma Sabhas, and Dharma Mandals and Varnashrama Swarajya Sanghas, have of course, expressed themselves against the Bill. To these opponents of

the Bill I can only most humbly and respectfully repeat that the Bill, if enacted, will not compel them in the very least to change the tenor of their lives against their will, by a single iota; but will only prevent them from interfering unjustly with the lives of others.

If there is any special provision needed to make this perfectly clear and certain, it can be added by the Select Committee. Consequential provisions will presumably have to be added by the Select Committee, to the effect that for purposes of inheritance and succession and any others that there may be, the varna or caste of the wife and the children in the case of such marriages shall be regarded as the same as that of the husband and the father, and his personal Hindu law will govern such cases; also that marriages under this law must be monogamous; and that any one who proclaims excommunication of persons making inter-caste marriages under this law, shall be liable to pay damages for defamation, on suit in a civil Court.

It should be particularly noted that the State of Baroda, with a population of two and a half millions, of which fully four-fifths or two millions are Hindus, has already got a Hindu Marriage Act, and a Caste Tyranny Removal Act, and a number of other Acts, which validate intercaste marriages, and punish with fine and even imprisonment, any excommunication of the parties thereto, and make other provisions much beyond the modest purview of this Bill.

When two millions of Hindus in Baroda are finding their life ameliorated, instead of being disturbed, by such laws, there is good precedent and much reason for believing that the two hundred millions in British India will also find their lives made easier, and not more difficult, if this Bill is enacted into law.

The masses of the people are naturally conservative, in all countries. They are especially so in India, for various reasons which need not be detailed now. But when a change has been definitely introduced, they take to it with equal fervour and tenacity and begin to wonder how they could have gone on so far without it. Sixty years ago, in my boy-hood, shortly after the Railway had been introduced, my venerated elders, having occasion to go to Calcutta and being compelled to make the journey by train, for obvious reasons of convenience, performed ceremonial expiation for the sin incurred, on return. Today, the train is purer than the bullock-drawn ratha. In 1891, nearly half-a-century ago, there was a miniature rebellion in Benares, the home of orthodoxy, whence I come, against the Water Works then being installed. Today Benares has the largest number of house-connections, in the U. P., and there is a constant cry for more, and perpetual complaint against the insufficiency of the water-supply, and the family worship cannot be performed in thousands of homes without the plentiful use of the pipe-water, where formerly it was anathema. We also know that superstitions have extraordinary vitality, so long as they are feared; but crumble at a single bold push. The Chinese women tortured their feet, and the Chinese men wore vast pig-tails, for centuries upon centuries. The custom suddenly disappeared with the great Revolution of 1912. So European women squeezed and tortured and positively distorted their waists and consequently suffered large mortality in child-birth for some centuries. The custom disappeared at the touch of some hygienic science and æsthetic art, a few decades ago.

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I trust the case of the conservatism and the superstition regarding avoidance of nominal intercaste marriage is and will be the same. Thousands of such marriages have been and are being entered into. This Bill, if passed, will only make the transition to the new state easier, and will save much travail. The change is sure to come, is coming, in any case, under the unavoidable, inescapable, pressure of the changing times. If the purely permissive legislation that alone is needed, gives the needed and due help, that change will come less painfully, without internal quarrels.

Law does not make history. History is made by the heart and the head of Society. Law only registers public opinion and facilitates the march of history, of which it is a consequence. Society makes laws, as it makes other implements and instruments, for making its life run more smoothly and richly. Let us make this law, to make the life of the Hindu community and also of the Indian people as a whole, run more smoothly and richly. There is quite sufficient public opinion now behind it, in favour of it, desiring it. Law is intended to help in stabilising social life, to prevent too rapid and upsetting changes; but neither can it ever stand stock still, because Human Life never stands stock still. Let us make this law to stabilise, by mere permission, the movement of Hindu life towards a greater freedom in marriage, as has been actually done in the State of Baroda, one of the 4 or 5 premier States of India. There is abundant authority in the ancient Hindu law-books for such needed changes in law and custom, as also for inter-caste marriage.

Desha-kala-nimittanam bhedair Dharmo vibhidhate.

"Law, Right-Duty, changes with change of time, place circumstance."

One more point remains to be considered. Some of my honoured colleagues here have told me that they are in entire agreement with the principle of the Bill, but do not like that the matter should be dealt with by the present Legislature. I can understand the sentiment. They feel that what they regard as a matter of religious sacrament, should not be handled by what seems only a secular body. But I would entreat them to consider that if they do not help the principle of the Bill, which they so wholly approve of, to be embodied in an Act of Legislation, the consequence will be that many young men and women, despite their deep and reverent desire to enter into a sacramental marriage, will be compelled to contract a secular or a disadvantageous marriage under the other laws. I would also beg them to reflect that the old Hindu jurisprudence does not make the hard and fast division that has grown up between religious and secular; and that it is a division which cannot be sustained, if we trace down deep enough, unless we believe that a human being is not an organic unity of body and mind, physique and psyche, but only a casual bundle of separate parts, like a bundle of sticks. The ancient Indian law-books deal with all sorts of human affairs, including those now regarded as religious as well as those looked on as secular. That ancient-most living law-book, the Code of Manu, is a Code of Socio-individual Life, which lays down the principles, and also the minimum of necessary details, of law, for regulating all the main departments of human life, educational and cultural, domestic and conjugal, economic and industrial, protective and administrative and political, this-worldly and other-worldly, relating to the life here and also the life hereafter; and it treats them all, and calls them

all, as Dharma, *i.e.*, the Duty of Man, Duty more than Right, Achardharma, Vyavahara-dharma, Prayash-chitta-Dharma, Sanskara-Dharma, Shiksha-Dharma, Raksha-Dharma, Varta-dharma, Seva-dharma, Deva-Pitri-Shraddha-dharma, Maha-yajna-dharma, and so on, Varna-dharma, and Ashrama-dharma above all, while Raja-dharma is expressly said to include all.

Sarve dharmah Raja-dharme pravishtah : (Mbh.)

Varnanam ashramanam, cha, Raja srishto-bhi-rakshita. (Manu).

The Statute Book of a civilised people cannot indeed help touching all departments of their life, directly or indirectly; only it should touch them all benevolently, and some very gently, always to help the good and hinder the evil. Even the very 'practical', matter-of-'hard'-fact, money-minded, Government of India, has, nevertheless, an Ecclesiastical Department (which unfortunately does not do at all the work it should). The *Upanayana* or *Yajnopavita samskara*, (the Parsi *Zunnar* or *Navjote* ceremony), the modern correspondent of which is the formal record of a new pupil's name in the admission register of the school by the Head Master—this ceremony, with which education and the student-life began, was, and should be, regarded, as an even more sacred ceremony than the *Vivaha-samskara*, the marriage-ceremony, with which the household and family-life began. The omission of the former entailed de-grad-ation, loss of grade, loss of caste, but remaining unmarried did not. Obviously, lack of education of the right sort and of true culture must bring about loss of social status; not so celibacy, if virtuous and continent. Yet these highly respected friends of mine do not and cannot have any objection to matters of education being taken up by the existing legislatures, and measures being enacted by them, whereby what may be called 'inter-caste' education, *i.e.*, the education of children of all castes in the same educational institutions, would be promoted.

Also, we find that the legislatures and the law-courts of the country are actually dealing already with many matters of personal law, and various other matters, which ultra-orthodox sentiment regards as exclusively religious, and therefore as deserving to be dealt with only by what may be called "Ecclesiastical Courts", the Sabhas or Panchayats of Dharma-adhikaris or of heads of castes and subcastes. And this current state of things is not possible, nor desirable, to change, in the present conditions of the human world.

Yet more. Hinduism has been changing itself considerably in many respects, either by slow and imperceptible gradual change, or, now and then, palpably by means of *responsa prudentum*, *shastr-artha*, *vyavastha*, *tika*, *bhaashya*, corresponding to modern case-law or judge-made law, *i.e.*, fresh and convenient interpretation, suited to new needs, by respected men of learning, who have acted as law-interpreters by the tacit consent of the people. After the passing away of the age of the *Smriti-karas*, the law-making Rishis and Puro-hita-s, the laws of Hinduism were not made by the method of direct repeal and enactment by formally constituted legislatures. Now, under any and every system of legal administration, the quality of the decision depends necessarily and obviously upon the quality of the judge. If the judge is wise, the case-law will be wise; if he is foolish, or ill-tempered, or hasty, or dishonest, or malicious, or otherwise interested, or biassed, or even only insufficiently informed and lacking in

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broad outlook and grasp of changed needs, the case-law made by him will be, and has been, correspondingly michievous. The misfortune is that the hereditary *dharma-shastris* and *dharma-adhikaris*, theologians and jurists, of the Hindu community, generally confine themselves to the study of Samskrit lore only, and though profoundly learned along their own lines, generally keep out of touch with the new thoughts and conditions of the larger world and the requirements of the busy work-a-day folk; hence they have made themselves, incapable of giving to the people the help they need in the concerns of daily life, by means of new and livingly useful interpretations of the old texts. Such interpretations have therefore to be made by those who are not hereditary *dharma-adhikaris*, but happen to be more or less in touch with the old as well as the new needs, ideas, conditions and movements; and the help of the available legislative power has to be sought to give such interpretations the force of law and make them apply to the daily life of the people.

It has also to be remembered that decision as to the validity or otherwise of a Hindu marriage now rests in the hands of only the law Courts. A new interpretation, even if made by the *dharma-shastris*, would have no authority to validate a marriage, if questioned on the ground of existing custom, by interested parties. Therefore the help of the Legislature is indeed indispensable.

It seems to me that we should miss no opportunity of getting really good and wise laws, calculated to benefit the people, passed by the available Legislature, while we endeavour steadily and diligently, in every way open to us, to oppose and repeal, as is our sworn duty, all the bad and unwise laws that are calculated to harm the just interests of the people. The old Smirtis themselves advise us to "gather and accept good laws, useful scientific discoveries, helpful rules of hygiene and sanitation, wise maxims, new arts and crafts, and other such good things, good brides especially, from anywhere and everywhere".

Strigo ratnany-atho vidyah,

Dharmah, shaucham, su-bhashitam,

Vividhani cha shilpani,

Sam-adeyani sarvatah. (Manu.)

For such reasons, I would earnestly and respectfully beg these friends to re-examine their sentiment on the subject.

Indeed, I would pray all my kind colleagues here to take another reason into consideration and therefore a larger view of the whole subject. Of all the Legislatures of the world, the Indian Legislature is uniquely composed of members representing all the great living religions of the world, Muslim, Christian, Parsi, Hindu, Buddhist, Sikh, Jain. Perhaps we have also some who, not wholly without cause, are disgusted with all denominational, sectarian, religion, and think that it should be wholly abolished from the world, because it has degenerated into priestcraft everywhere, and become the source of vast misery and conflict, instead of happiness and peace, to mankind. Yet these Socialist colleagues, are at heart, sub-consciously if not consciously, truly spiritual-minded, because they desire a more equitable sharing of necessities and comforts, as all the greatest Teachers of Mankind have taught that human beings should desire and bring about.

The Prophet Muhammad has said :

*Afzal-ul-īmāniun-tohibbo linnase
ma tohibbo le nafsekā*

“This is the highest religion that you love for others what you love for yourself”.

The Prophet Zoroaster has said :

*Ushō yāhmāi kahmāi chit,
ushtā ahmāi chit.*

“What I hold good and right for myself, that I should hold good and right for all others”.

The Messiah Jesus has said :

“Do unto others as you would be done by; this is the whole of the Law, and the prophets”.

The Avatars of India have said :

*Shrūyatām Dharma-sarvasvam
Shrūtvā cha-iv-śvadhānyatām,
Atmanah prati-kulāni pareśhām na samā-cheret,
Yad-yad atmani ch-śhēta tat parasy-ōpi chintayēt.*

“The whole of Religion and Duty is that ye do not do to others what ye do not wish done to yourself; and that ye do unto others as ye wish should be done to you.”

We have followers of all these in this House. Instead of being secular, the House is indeed a very religious body, and has the possibility of acting as a truly Spiritual League of All Religions, inspired by the Spirit of that Universal Religion which has been proclaimed by all the Great Lovers and Teachers of Humanity. We have ~~all~~ ~~only~~ ~~to~~ ~~rise~~ ~~to~~ ~~the~~ ~~height~~ of our great opportunity. We would then be able to achieve the purpose for which, I reverently believe, the Mystery which has created and runs the Universe and which is at work equally in the atoms as well as the solar systems, has brought all these Religions together on this land, *viz.*, the purpose of understanding each other, and dwelling together, not only in peace but also in active friendship and mutual helpfulness, and thus of being all saved together from internecine destruction, and making ever greater advance, side by side, on the path of true civilisation and happiness. I am profoundly convinced that the measure which I have presented to the House will initiate the beginning of that reformation and regeneration of Hinduism and Hindu Society which alone can enable them to live in peace within themselves and with all other religions and communities. And I fervently hope that what I have said will incline all my kind colleagues here to take a favourable view of the Bill.

I move, Sir, that it be referred to a Select Committee composed of the Honourable Members I have named at the beginning.

*Mr. President (The Honourable Sir Abdur Rahim): It ought to be mentioned that, on enquiry from the office, the Chair finds that the Honourable Member, Dr. Bhagavan Das, had sent in a list of names for the

[Mr. President.]

Select Committee, but then, in a later notice, he said that he would give the names of Members of the Select Committee at the time of moving the motion. The motion moved is:

"That the Bill to validate marriages between different castes of Hindus be referred to a Select Committee, consisting of the Honourable the Law Member, Mr. M. Asaf Ali, Pandit Krishna Kant Malaviya, Rao Bahadur M. C. Rajah, Mr. Ghansham Singh Gupta, Dr. N. B. Khare, Mr. B. Das, Mr. Sri Prakasa, Babu Baijnath Bajoria, Seth Govind Das, Mr. Amarendra Nath Chattopadhyaya, Raizada Hans Raj, Mr. Sham Lal, Babu Kailash Behari Lal, Mr. N. M. Joshi, Sir Muhammad Yakub and the Mover, with instructions to report on or before the 31st March, 1937, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Honourable Sir Nripendra Sircar (Law Member): I rise to oppose this motion. Neither from a perusal of the Bill, nor from the **1 P.M.** Statement of Objects and Reasons, nor from most of the opinions which have been received is it clear what the Honourable Dr. Bhagavan Das is really after. Does he want merely a declaration that a marriage between Hindus of two different castes should be valid? If that is so, then this Bill is not wanted, because we have got the Act of 1923. Or does he want to carry out his idea to its logical conclusion involving changes in the law of partition, succession, adoption, and so on? If that is wanted, all of them are absent from the Bill. The Honourable the Mover simply said: "Well, all that can be done in the Select Committee." That is to say, what he really wants is—as that is his object—that the law of succession should be changed, the law of adoption should be changed, and the law of partition should be changed. He has really presented half an anna of his Bill and he wants the remaining 15½ annas to be added by the Select Committee. I have heard it so often that this is a permissive Bill. But is it so?

Dr. Bhagavan Das: Yes, it is.

The Honourable Sir Nripendra Sircar: My Honourable friend has said "Yes", and I equally emphatically say "No". What is meant by a permissive Bill? If it is meant by a permissive Bill that we are not compelling two persons to marry who do not belong to the same caste then in that sense it is permissive. Of course, no one can by law compel anybody to marry anybody else, but from the point of view of persons other than those marrying, there will be compulsion in many spheres. I am assuming for one moment that what has been brushed aside by being described as prejudices and superstitions are really cherished notions and firm convictions of a large section of the Hindu community. Now, bearing in mind this point of view, consider the case of the daughter of a Mochi marrying in a Brahmin family. It is the idea of Dr. Bhagavan Das that this couple will have the right of succession and adoption and the Mochi-Brahmin combination will lead to an issue whom the other coparceners will be bound to recognise for purposes of partition and succession. The couple and their issue will have rights in the family temple. Is not that compulsion? Under the present law, they are not bound to do this; they are not bound to give them any share, or to allow them not to enter the family temple. So it is no good merely repeating the parrot cry that this is permissive. It is coercive, it is compelling other people to give up their rights; it is compelling other people to give up their religious convictions which have been described as superstition.

Then, Sir, let us see whether it is a measure of reform or whether it is a retrograde measure? Undoubtedly, it is a retrograde measure, because, as I have informed the House, there is nothing today to prevent a Hindu of one caste from marrying the Hindu of another caste or sub-caste. That is permitted by what is called Dr. Gour's Special Act. If that is so, what is really at the bottom of this Bill? It is not helping two persons, who belong to different castes and who find it impossible to marry under the present law, to marry, because that law exists today. In fact, it has existed from 1923. Then, what is it that the Honourable Mover is after? What is at the back of his mind? It is not the permission to marry which is at the back of his mind, because this permission already exists for a valid marriage. What he is after is that, although they will marry according to rules which are not acceptable to a very large section of Hindus, yet they must continue to be recognised as remaining in the Hindu fold against the wishes of the other members of that community. That is where the compulsion comes in. Now, Sir, under the Act of 1923 what is the position? If a man marries outside his caste and if that marriage is not regarded valid under the Hindu law, then it affects the severance of the joint family. I should say it is very reasonable. The man who is free from the prejudices and the superstitions of the Hindus, let him marry outside his caste, but he should clear out of the family. That in one sense may be called permissive. But what is wanted now by this Bill is that there should be no severance of the family and whomsoever might have been married she or he must continue to be regarded by people as members of the same family, for all purposes. That is the object of this Bill. I say it is a retrograde measure, because if Dr. Bhagavan Das is after reforms, then let him bring forward measures which are "reforms" according to the reforming party who believe in modern ideas. As he himself pointed out, whereas Dr. Gour's Act of 1923 insists on a monogamous marriage, his Bill does not. But he has one answer for all that and that is: "All that can be done in the Select Committee". So, I say that the Bill, as drafted, permitting as it does polygamous marriages is a retrograde measure. Again, those, who believe in reforms, would give women the right to divorce. Of course, I am not discussing the question as to whether the right should be given or not. But surely the right to divorce is a step in advance so far as the reformers are concerned and that Dr. Bhagavan Das is not willing to do unless it is covered by the general formula: "All that can be done in the Select Committee". It is not merely a question as to the uncertainty of the scope of the Bill which by itself, as I have pointed out, creates a great difficulty, but the object of having a Bill which, in so far as it differs from the Special Act, is not an advance in the direction of reforms. From the point of view of those who call themselves reformers this is a retrograde measure. That is the reason why the Women's Associations will not support this Bill. They say it is nothing. They want full reforms. They want the right to divorce, and that is not to be found in Dr. Bhagavan Das' Bill. It does not even insist on a monogamous marriage which has been provided by the Special Act. If the Bill had been merely useless, possibly, I would not have spoken even for these five minutes, but it is an absolutely mischievous Bill, because its real object does not appear from it. It is not suggested in the Bill what its consequences will be, and it is my point before this House that the consequences will be not what can be described as a permissive measure, but would amount to compulsion so far as other members of the family and the community are con-

[Sir Nripendra Sircar.]

cerned. If we follow the principle of Dr. Gour's Bill, then there is less question of compulsion. A man can marry whomsoever he likes, but then he cleans out of the family: he has nothing further to do with it. But that is not the position under this Bill. He will disobey injunctions which are still regarded as valid under the Hindu law by other members of the family and the community; but having disobeyed all that, he does not want to get out of that family or lose his rights in the family, in the family property, and in the family worship. I submit that is a position which ought not to be seriously considered by this House for one moment. The Bill is an unnecessary and retrograde measure, and I oppose the Bill.

Sir Muhammad Yakub (Rohilkund and Kumaon Division: Muhammadan Rural): Sir, I was rather surprised to hear the speech of the Honourable the Law Member this morning. I thought that he was a great social reformer, because, the other day, when he was speaking on the Arya Marriage Bill, he gave the House an impression that he would not come in the way of social reform, or in the way of raising the status of the so-called depressed classes. Sir, Government have on several occasions said that they are in favour of raising the status of depressed classes. They say that they are doing all that is possible to remove the disabilities under which the so-called depressed classes are suffering, and yet we find that when the time comes to take some action they do just the reverse. I welcome the Bill which has been moved by my Honourable friend, Dr. Bhagavan Das, and I am really very glad that a measure like this has been moved in this House. It shows that the more the civilization advances, and the more the ideas of toleration are gaining ground in the minds of the people of this country, the more India advances towards Islam, and the more India is accepting the principles which were laid down by the great law giver of Islam 1,300 years ago, and it is a matter, not only of pleasure, but pride for all Mussalmans. I think a time will come when civilization will be perfected on sound principles of Islam which were enunciated by the great law giver of Arabia and Islam will be accepted not only in India, but by all the countries in the world. So far as Mussalmans are concerned, we have got no depressed classes. Islam, of course, is the religion which first brought the principles of equality to all human beings. According to Islam, a really respectable man is one whose actions towards God and towards his creatures are good and pure. Says the Holy Koran:

"Inna Akramakum Indullahe Atqakum."

"The most respectable man amongst you mankind is one whose actions are good and who behaves properly towards people, notwithstanding that he is the son of low born person or belongs to highly born parentage."

Among the Mussalmans even a sweeper can stand shoulder to shoulder in the mosque with the biggest of Muslims and offer his prayers. If only the ex-King Edward VIII had been a Mussalman, I think he would not have been forced to abdicate this great Empire in order to marry the lady of his choice. I submit this measure is really a move towards Islam, and, therefore, it is quite welcome, and I approve of it.

However, there are one or two observations which I would like to make. In a country like India, where a foreign Government have rightly

made a declaration that they will not interfere with the religion or the religious customs of any community or sect, and no measure which is considered to interfere with the religious rights of any sect will be adopted, as a legislative measure, until and unless the Government are satisfied that all the members of that community, or that an overwhelming majority of the people of that community, want that measure and that they are sanguine to have it. In the same way, no measure should be introduced, or passed, by this mixed Assembly which encroaches upon the religious rights of different religions until and unless the followers of the religions, which are affected by the measure, have, unanimously, agreed that that measure is required and that they want it. In fact, this was the undertaking which, more than once, was given on the floor of the House, on behalf of the Government. Sir Brojendra Mitter, when he was speaking on the Bill introduced by Sir Hari Singh Gour, enunciated this principle that in this Assembly no measure in which any encroachment is made upon the religious rights of any other people will be supported by Government unless it is ascertained that all the members of that community want it, and that there is no difference of opinion among the members of that community. Sir, so far as we are concerned, we welcome the Bill and we would support it. In fact, I consider this is a half hearted measure like another half hearted measure which was brought forward, the other day, by my Honourable friend, Dr. Deshmukh, in which they have given a share to the widow in her deceased husband's property, as a life interest; for this reason it was a half-hearted measure. I think, however, that something is better than nothing, and if even through half hearted measures we can raise the status of the so-called depressed classes, or we can improve the position and the status of women among the Hindus, I think we ought to welcome the measure. The Government should make themselves clear on this point that this measure will not create any heart burning among the Hindus, that is to say the Government must make sure that all those who are affected by this measure, or that a great majority of them, are in favour of this Bill and that they do not object to it. We, in this House, should not pass any measure which will be considered as an interference in religion by any caste or community or people of any religion. With these remarks, I support the motion of my Honourable friend, Dr. Bhagavan Das.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Sir Muhammad Yamin Khan: Sir, it was a great treat to listen to the learned and lucid speech of the Honourable the Mover of this motion and to the many points which he brought forward, and for any lawyer it was a great lesson. Sir, as a Mussalman and having been brought up under those traditions which Islam teaches, to me anything in the shape of caste system is repugnant. The caste system has been a great drawback on the improvement and progress of India, and, so far as my personal feelings go, the sooner it is done away with, the better for India, and I will really be very pleased to see that. But here we are not to be guided by our personal feelings. We are here as legislators safeguarding the interests of, and being guided by the notions of, people whom

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this Bill is going to affect. Whatever may be my feelings as a Muslim, I have to look to the feelings of the people whom it affects. It is an established principle of Hindu law that a man of a higher caste can marry a woman of a lower caste in which case the issues take the caste of the mother. Therefore, if a Brahmin marries a Vaishya woman, the issues will not be Brahmins, but will be Vaishyas. If a Kshatriya marries a Sudra woman, the issues become Sudras and not Kshatriyas. This Bill, however, wants that if a Brahmin marries a Sudra woman, the issues should be classed as Brahmins. And the learned speaker brought this point out very lucidly in his speech. He wants that the children so born shall take the caste of the father. This really goes against the settled principles of Hindu law.

Then, his Bill destroys another point of Hindu law, and that is that no man of a lower caste can marry a woman of a higher caste. That marriage is null and void from the very beginning; but the Honourable the Mover wants that this marriage should be recognised. That is to say, that if a sweeper marries a Brahmin woman, that marriage must be quite good and the issues must be treated as legitimate. This is really destroying the Hindu law altogether; and here we have to see whether the Hindu society as a whole is prepared to accept this change for themselves. Although I was elected here by the votes of Muslims alone, I come from a constituency where Hindu zamindars and tenants have got as much votes as the Muslim zamindars have got under their influence, and I find that my Hindu friends in my constituency are absolutely opposed to this Bill. They think it is an undesirable change and will destroy the fabric of their society. It may be said that their ideas are wrong and the learned Mover said that they are misguided people who do not understand the principles of Hindu law. But I am not concerned with that. I say that they are the best people to understand their own religion, and I have no right to tell them that they must understand their religion or their customs in a particular manner. And if my friend wants to make any change, his first attempt should be to bring in a change in the minds of the Hindu public as a whole. And once that is done, there will be no difficulty for him and there will be a demand from all corners for a change.

Now, the people rightly or wrongly take their custom as a part of their religion, and in India one has to be very careful in interfering with another person's religion. We as Muslims have no right to interfere with the established notions of another community. I quite agree with my Honourable friend that Hinduism is not really any caste or religion. The word "Hindu" did not apply to any particular class of people although it is now so understood. He is quite right in saying that "Indus" is the real origin of the word "Hindu". The Indus which was called Sindhu divided the country into two parts,—the people on one side being called Sindhis and people on the eastern side of the Indus being called Hindus. He is right when he says that the Persians gave this name, and so the Muslims when they came to India began to distinguish the people of this country from themselves. At that time the Arabs who came to this country came as conquerors. They called themselves Arabs, and the rest of the people as Hindus. It is a peculiarity of the Arabic language that they call one thing by one name and all the other things by another name, just like Arab and Ajam. When they call themselves

Arabs, they distinguish all the non-Arabs as Ajam. In this manner, they gave the name "Hindus", just as the Europeans now make a distinction between European or English and Indian. The word "Indian" includes Hindus, Muslims, Parsis, Sikhs, Jains—all people living in India. In the same way, when the Muslims used the word "Hindu", they meant all people who lived in India, whatever their religion or traditions may be. Before the Muslims came, there were the Aryans, the Dravidians, the aborigines, Parthians, Persians and some remnants of the Greek Army and some Indo-Chinese who came from all parts of the world and settled down in India and mixed with the population: they had different customs and manners and ideas and culture which all mixed and brought forth a new civilisation. Similarly, when the Mussalmans settled down in India and no longer considered themselves to be foreigners, they became part and parcel of India and evolved a new civilisation which was really the Indo-Saracenic civilisation. The quotations my friend has given might be authentic to the Aryan race, but I wonder if the Dravidians will accept his quotations as binding on them or not. The present idea of the Hindus is that their religion is as evolved by Manu—that is really followed by the great bulk of the Hindus: and unless and until the Hindu society as a whole wishes to bring about a change, we have got no right, as not being part and parcel of that community, to impose our own will upon them. I felt it to be my duty to explain my position as a Muslim, so that I may not be misunderstood when I cast my vote against this motion. I whole-heartedly agree with him on principle, but my duty as a legislator is absolutely different from my personal views. The Honourable the Law Member has clearly shown that this really affects Hindu society and Hindu law to a very large extent. With these words, I oppose the motion for Select Committee, and agree with the views of the Honourable the Law Member.

Mr. Umar Aly Shah (North Madras: Muhammadan): Sir, I rise to oppose this Bill of Dr. Bhagavan Das. This is a purely Hindu religious Bill which we have no right to decide here. This Bill is an inter-national marriage Bill, which means that there is no meaning in Hinduism. Hinduism depends on the caste system—there is no other life in Hinduism. The Vedas tells us in the beginning:

*"Yedhe mam vacham kalyani ma vadani janebhyaha
Bramha Rajanebhyaha Sudra yecha Arya yecha sweeyacha arnaya.
Yedha imam vacham kalyanim advadanim janebhyaha.
Jana nama sayanacharyana vidyaranya bhashyena Bramhanaparam utchayeth
Hathayeve veeramoolena Bramhana, Kshatriya, Visya, Sudra stree utchayathe
yadhavarthathe Vedaha."*

That is the Rig Vedic verse. Brahma says.

"Oh, my people, I put these four Vedas before you for salvation which you will follow, and whatever difficulties you have, you will not feel them, you are four different sects—Brahmans, Kshatriya, Vaisya and Sudra."

There are some differences of customs and rights and those rights have been explained by Manu who is the greatest writer on Hinduism. There is also the Parasara Smriti. Manu Smriti is not an ordinary book: it contains nearly 57,000 verses: the Parasara Smriti contains some 65,000 verses with commentaries: these two books. . . .

Dr. Bhagavan Das: The current printed editions of Manu contain only about 27,000 verses—even less than that.

Mr. Umar Aly Shah: There are so many different texts: the one I saw contained 57,000 verses. "Kalau Parasarah Smritihi"—this law is for the Ka'i Yuga; but Dr. Bhagavan Das did not give a single authority from that Smriti, which is the most important law book for present day Hindus. They tell us there are some eight kinds of *vivahas* or marriages—Brahma, Rakshasa, Daiva, Pisacha, Arsha, Prajapatya, Asura and Gandharva. But there are differences in the marriages among Brahmanas, Kshatriyas and among Sudras. If a marriage takes place among Sudras, they do not do it with Vedic resources—they may have some Puranic resources: that is the law of Manu:

*"Vedokta vivahe Brahma, Kshatriya jayathe yadha;
Sudra vivahikam gacheth Tatha pauranikam.
Jatyamtara vivahina Jayathe varna-shankarah
Nothadhikara karmanani Pitranam narakam vrajet."*

It means: "Through international marriages caste will be corrupted. They have no right to perform karma without which the parents must go to hell."

That is Parasara's authority. There are so many authorities and so many theories in Urdha Parasara, Mahabharata, etc. But this is not the place to explain those points and go into those interpretations. My friend, Dr. Bhagavan Das, gave us a few authorities in support of his Bill, but I submit they were all wrong authorities and wrong interpretations. He referred to the word "Dwijā". It means twice born, but does it mean that a man is born twice, which is against nature? That is not the correct meaning. The real meaning of "Dwijā" is "*Karma samaskararupina dwija ithuthyate budhyhi*"—reformed by Karma. Another meaning of Chaturvarnyam is: "*Mayasushtam guna karma vibhaga saha*". This is not a code verse, but a Gita verse. Gita is not a law book, but a philosophical book. How can you take the Gita for marriage law matters? Therefore, *varnyam* in this verse means colour—not sect. If Gita says for sects, *varnani* could have been written by Vyasa through the Grammar of Panini. Gita's authority says against the meaning *Rangath vishaiya* which means not creed and caste (different colours). How can we ignore "*Brahmanasya makhmaseeth bahu rajanya*"—Purusha Sukta. There are four castes. How can we deny the existence of these four castes when even the Gita mentions those four castes. Thus, my friend, Dr. Bhagavan Das, has given entirely incorrect interpretations. There are many Sanskrit, Persian and English scholars in this House, but we have no right to give incorrect and misleading interpretations.

Now, Sir, if we pass this Bill, Hinduism will be ruined. There will be no life left in Hinduism. Hinduism depends on four castes and the caste system. If we ruin the caste system, then what will there be left in Hinduism? There are so many points which could be made against the introduction of this Bill, but I have no time to go into all the details. If any public meeting were held, I should be prepared to challenge before the public and prove to the world that the passing of a Bill of this nature will sap the very foundation of Hindu religion and Hindu society. Hinduism is a very great and pious religion. Hindus must have performed a some important Karma to be born in that religion. Karma means a holy creed; they must have performed some important Yajna. Now.

these six customs, namely, yajna, yahjana, adhyayana, adhyapana, dana and pratigraha were made for Brahmanas—then Yajna, adhyayana and dana were made for Kshatriyas. There is no authority for a Vaishya or Sudra to do that. . . .

Dr. Bhagavan Das: If I heard my friend aright, he said there is no mention of Vaishyas. It is distinctly stated in Manu that charity, self-denying public service, and study are common to all the three re-generate classes, as lawful duties. *Dānam, adhyayanam, Yajih*. But: shastra-astra-bhrit-tvam Kshattraya; vanik-pashu-krishir vishah; shudrasya cha-iva seva-eka; "Executive and military and police work for the Kshattriya farming and cattle rearing and trade for the Vaishya; the helping of the three in various ways for the Shudra". Such is the partition of the different means of livelihood between the three regenerate, twice-born and the fourth 'once-born' castes.

Mr. Umar Aly Shah: I can quote from Manu Smriti to prove my point. What my friend, Dr. Bhagavan Das, has said refers to Varna Vishaya, but I want to know where is that authority. Some four hundred years ago, Muhammadans also wanted to introduce inter-caste marriages. It is well known that Akbar and Shahjehan had married Hindu ladies, and for that Muhammadanism has some authority, but Hinduism cannot quote any authority for such marriages. A few reformers might cite some authorities in support of their actions, but they will spoil Hinduism, because they have no Sanskrit authorities to cite. They do not know what Hinduism really means; they do not know what purity of religion is, what Gotra is. Gotra indicates heredity. There is also a second name for Gotra, and that is *Kula* and *pravara*. If we pass this Bill, how can we expect to continue to keep up heredity in future? This land of ours is called Karma Bhoomi. On the last occasion, I mentioned that the word Hindu had a bad meaning. Our friend Sir Muhammad Yamin Khan said the term Hindu was derived from the word "Sindhu". That is not so. The real meaning of Hindu means slaves; there can be no other meaning for it; but we are not slaves; we don't want to be called by that insulting name. But I may say that Hindus also called Muhammadans and other foreigners Mlechchas. Mlechcha means impure one, and not untouchable. Muslims are Bharatiyas, because we are born in Bharata Varsha. It is a good and beautiful name. What I submit is that there are not only four castes, there are eighteen castes. In those days of Mauryas, hundred years ago, when some Rishis or some leaders wanted to join some particular persons, they put some kind of interpretation, but those authorities we cannot accept today. With these few words, I strongly protest against this Bill.

Babu Baijnath Bajoria: Sir, I rise to oppose this Bill lock, stock and barrel. This Bill, ever since the time of its introduction, has been causing a great panic among the Hindu society. With due deference to Dr. Bhagavan Das, in spite of the learned speech which he has made today, I must say that I am still unconvinced, and there I am on sure grounds. His Bill wants to do away with the caste system altogether. He wants to do away with the Hindu joint family system and several other things. Sir, history is replete with innumerable instances of ceaseless arrogant efforts which have been carried on with a view to brush aside the very existence of Hinduism from Hindustan.

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The tremendous onrush of Buddhism, the proselytizing zeal of the Moslem rulers and the continued propaganda of ultra-reformists may be mentioned as only a few amongst others. Dr. Bhagavan Das's Bill is only another effort of the same kind, but he differs from them in this, that, while the others possessed faith and conviction of their own, and courted suffering and sacrifice for asserting them on others, Dr. Bhagavan Das tries to oust Hinduism by this one-clause Bill. We may remember that Dr. Bhagavan Das's son, Mr. Sri Prakasa,—he is not here today—also gave us a one-clause Bill as regards the Company law. I need not go into details, but he wanted to devour the companies altogether, and this one-clause Bill of Dr. Bhagavan Das wants to devour the Hindu society altogether. The Bill is permissive in form, but as has been rightly pointed out by the Honourable the Law Member, it is practically compelling with all its complications and seeks to popularise marriage between Hindus belonging to different castes and to give a status to children born out of such marriage. It is surreptitiously surrounded by a vague incompleteness which itself defeats its own purpose, reducing it to a mere trash fit for total rejection. The unquestionable talents of Dr. Bhagavan Das have led him astray. I used to know that a little knowledge is a dangerous thing, but I now find that too much knowledge is even more dangerous.

According to Hindu law, marriage is a sacrament just like the *Anna-prasana* or the *Upanayana* of the Dwija castes and not a social contract—*Vivaha* or marriage, as it is understood by the Hindus, conveys a completely different idea, so much so that it has no synonym in any language of the world. Manu, who is undoubtedly the authority on matters like these, states:

"After finishing celibacy a twice-born, coming to a householder's stage with the permission of his preceptor, should, according to Shastric injunctions, take a spouse of his own caste who possesses all the good signs."

While introducing the Bill, the author gives the world a very novel and curious interpretation to the word "savarna". According to him, it means,—“to wed a wife having parity of temperament, equal profession or education, etc.”. My Honourable friend says that a person should marry a wife of his own temperament. Sir, a man's temperament changes in the course of 24 hours. Sometimes he is in an angry mood, sometimes he is courteous and polite. When a man changes his temperament several times in 24 hours, how can he, for one whole life, choose a wife having the same temperament? Does it mean that when he changes his temperament the wife also must simultaneously change her temperament in the same way?

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Then both of them may get angry together.

Babu Baijnath Bajoria: They may get angry together and there will be a quarrel and they would come to blows. Manu has left no room for misunderstanding as regards the interpretation of "savarna"; why then this overlapping tendency on the part of Dr. Bhagavan Das? Is it always possible for a bridegroom to judge for himself whether a bride is:

on a par with him? While disparity is the rule of nature, is it also possible in this world to have equality in temperament and all that, between a man and a woman belonging to different castes? If equality of temperament is not possible in one caste, I submit that it is even more impossible in different castes. My Honourable friend's idea about "Var-navyavastha" is absolutely wrong and mysterious. He has got no authority whatever from the Shastras. He says, Varna according to Karma in the same life. It is not so at all. Varna is from birth, and birth according to our Hindu religion means that according to our Karma we get our birth. According to our Karma in the past life we get our birth in this life. If we do good in this life we can hope to have a better life, to be born in a better family, in the next life; otherwise God will be accused of partiality. God has made one rich, another a pauper, one a King and another a poor man. Shall we blame God for that? According to our Hindu religion, certainly not. What we have done in this life, we reap in the next. But my friend says that what we do here we reap here. This is not so at all. My Honourable friend expects that there should be no such nuisance as restraint in marriage. I think he would like complete, unbridled freedom to move, behave and mix as one likes irrespective of caste, colour or creed. Perhaps, he would like that there should be perfect licence to make courtship or to enjoy sweet honeymoon before the marriage so that the couple may know each other's temperaments. It is absolutely absurd.

Sir, the entire Hindu society is based on the sound basis of caste system—a system which, through ages, has been so much implanted in our inner nature that despite its much advertised drawbacks, it is undoubtedly the essential and indispensable part of Hinduism. Hinduism rests on the four pillars of the four castes, Brahman, Kshatriya, Vaishya and Sudra. Take away the caste system and Hinduism falls. Then you may be Hindus by name. According to the present day practice, everybody wants to make another person a Hindu, simply to swell the figures but they are not true Hindus according to our Shastras. Sir, the existing institution of caste, according to Dr. Vincent Smith, is peculiar to India. It is at least three thousand years old. It is the most vital principle of Hinduism, dominating Indian social life, manners, morals and thought. It is an integral part of Hinduism, being intimately connected with the Hindu philosophical ideas of Karma, re-birth and the theory of the three "gunas"—"satwa", "raja" and "tama". Hindu society without caste system is inconceivable. Society aptly resembles a cobweb, so artistically interwoven or a musical instrument so perfectly tuned that a mere touch will make the whole thing vibrate or resound. And caste system to Hindu society is more a filament to a cobweb or a string to an instrument. It constitutes the very nucleus of this huge organism. But the present Bill seeks to introduce a form of marriage which will invariably bring about a dissolution of this age worn system and thereby strikes at the root of Hinduism. It seeks to violate one sacred rule and as a corollary brings about havoc upon the whole social body. I therefore feel it necessary to state emphatically that law should never allow a man to do away with caste by contracting inter-caste marriage and at the same time style himself a Hindu competent to enjoy all the privileges such as rights of coparcenary, adoption, etc., provided for by the Hindu law. Union between persons belonging to the same caste only

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is marriage; therefore, the term inter-caste marriage is unknown, self-contradictory and illegal. That being so, my considered opinion is that if this Bill is enacted into law, the Hindu marriage, instead of being a sacrament, will degenerate into a vicious form of legalised concubinage with the result that promiscuity and intemperance will be the masters of the situation and disruption of social bond will inevitably follow.

The Bill states that marriages, between Hindus of different castes, shall 'not be invalid'. It may appear to a casual reader to be purely permissive in its character but a bit of careful observation will make it clear as to how this simple statement involves far-reaching consequences. True, nobody is hereby compelled to marry a girl belonging to a different caste. It only declares such marriage to be not invalid. As the Honourable the Law Member pointed out, nobody has got the right to force anybody to marry a certain girl. But then, when one marries, what will be the status of the couple as to themselves as well as in relation to others. What will be the rituals of such a marriage.

Mr. N. M. Joshi (Nominated Non-Official): As you are against it, you need not bother about it.

Babu Baijnath Bajoria: Why not? If you don't bother about it, then why not marry under the Special Marriage Act? According to us, a Hindu marriage cannot be performed until the proper rituals are performed. How will you determine the castes of the issues of such marriage? Let us take an instance. Suppose a Brahmin marries a chamari girl and she comes into the family. The Brahmin has got his other brothers. They all constitute a joint family. Will the other members of the family be bound to accept that chamari into their family?

Dr. Bhagavan Das: The other members of the family can apply for a partition, as they can do now?

Babu Baijnath Bajoria: Why should the others take the trouble of going to Court and having a partition? It is for the man who marries to get the marriage done under the Special Marriage Act. Why should he pollute the family?

Dr. Bhagavan Das: Under that Act, there would be automatic severance of such a man from the family. My Bill wants to avoid it.

Babu Baijnath Bajoria: Now, what will happen. Immediately that chamari girl comes into the family, there will be a hue and cry. (*Mr. N. M. Joshi:* "Why") If you ask "Why, that cannot be answered. If you don't want to understand, then nobody can make you understand. Then, partition will follow and litigation will follow. The family will be disrupted and all sorts of evil consequences will come. Take another instance. Suppose the family has got a private temple. They have a private temple built from the joint property of the family. That man will say "My wife has got every right to enter that temple". It brings in the question of temple entry. Then the other brothers will say "No". What will happen I do not know. There will be serious disturbance and breach of the peace. I have given you a few instances of far-reaching consequences. There are numerous other matters. It is found that the

moment such a marriage takes place, law compels the parties concerned to submit to the anomalous conditions created thereof. Complicated questions over inheritance and various other rights and privileges will make their appearance, different coparceners will find themselves fighting like Kilkenny cats amongst themselves, civil and criminal litigations will follow one after another, with the result that unforeseen cataclysm will bring about disintegration and disaster to a peaceful community. The strong exception that should be taken over this Bill is that while it seeks to legalise what is illegal, it remains mischievously silent over vital issues. Law must always be definite so that all may clearly follow its implications and expect even-handed justice under all circumstances. But the present Bill only creates difficulties without solving them. So, I hope that none will attach any importance whatsoever to it. There is another aspect which I forgot to mention. What will be the status of the son born of such inter-caste marriage? Will the son born of a Brahmin father and a chamari girl be a Dwija or a Sudra, because there is a different law for the Dwija and a different law for the Sudra. Nothing is mentioned here about it and we do not know what will be the position. So this Bill creates all sorts of complications about temple entry, disruption of the property and the joint family, the status of the offspring and so on. The object of the Bill is to validate marriages between different castes. Where, then, is the occasion for introducing it, when there is ample provision already made by the existing law, *viz.*, the Special Marriage Act (Act III of 1872) as amended by Act XXX of 1923, which allows everybody to marry as he likes and at the same time he is allowed to remain a Hindu? Moreover, the existing law has the merit of being precise in all respects. Therefore, the present Bill is superfluous and nothing but an uncalled-for attack on the sincere feelings of the Hindus. Further, if the purpose of the Bill is to give a status to the children born out of such marriages, the aforesaid Act sufficiently serves that purpose too. It lays down definite rules for succession and leaves no room for ambiguity. Even the existing Hindu law recognizes certain rights of the issues of continuous concubines over the properties of their parents. Sir, analysing all the intents and purposes of the Bill, either expressed or implied, I have so far tried to show that it contains nothing substantial to add to or to improve upon the existing law. There is no constructive idea behind it: its only end in view is to destroy the spirit of Hinduism. The Bill, as it has been introduced, can serve nothing of its own purposes; it simply makes the matter from bad to worse. Those who will marry according to this Bill, if passed, will have to suffer from generation to generation, as the Bill extends no protection to them when they will be completely outcasted. In conclusion, Sir, I repeat my considered opinion that this Bill frustrates the fundamental principles of Hinduism, as a Vedic marriage aims at retaining the continuity of succession through pure blood by marriage between persons belonging to the same caste, procuring thereby spiritual salvation for the deceased ancestors through *śradh*. In the Gita, it is mentioned that a "Varna-shankar" cannot offer Pindas to the deceased souls; and, according to the Hindu Shastras, *śradh* is a very important function for the benefit of the spiritual salvation of the departed soul. So, if this Bill is passed, the parents will not get Pindas and thus they will not get their "mukti". The author of the Bill assumes the role of the second Kalapahar by unnecessarily wounding the feelings of millions of

[Babu Baijnath Bajoria.]

his co-religionists. But I am sure that every effort to degenerate Hinduism will fail completely; Hinduism—the “Sanatan Dharma” as it is called—will retain its supremacy against all odds, as it has done before. India, the dream-land of spirituality, heredity and moral philosophy, will always defy the vile attacks of materialism; heretics can never desecrate her precincts of sanctity. In spite of the sneering and jeering of a few renegades whose heads have been turned turtle (Laughter) by the glamour of the West, the Sanatanists will always believe in the foresight of the ancient sages to whom the Will of God was revealed. Our knowledge being too inadequate for enabling us to enter into the tanglewood of spiritual experiments, it is only meet and proper that we should follow the Shastric injunctions with a heart of sincere devotion. Sir, I will conclude with one sloka from the Gita :

*Tasmāśhāstram pramānam te karyākarya vyavasthitau
Dyātvō śhāstra vidhānōktō karmkartu mihāharshi.*

“We should act according to what is enjoined upon us in the Shastras. We should read what is written in the Shastras and act accordingly. We should not go beyond what is written there.” (Hear, hear.)

Sir, this Bill is a great onslaught on Hinduism; and it deserves the severest condemnation and must be thrown out immediately by this House.

Mr. Leichand Nayalrai: Sir, I will make some observations on this Bill though I will not enter into the religious controversy which has gone on in the House. In fact, I had no intention to speak on this Bill, but after I saw that my friend, Sir Muhammad Yakub, intervened in this affair and showed very enthusiastically an attitude of a reformist, that fact has induced me to speak on this Bill. Sir, this question of reformation is a contested question—there can be no doubt. I, therefore, thought that it would be much better to hear the two extremes that there were in this House today. My friend, Dr. Bhagavan Das, gave his view of the Vedas and the Shastras, and on the other side there is the very extreme spokesman, my friend, Babu Baijnath Bajoria, and I have heard them both. Now I was very much delighted to hear my friend, Mr. Umar Aly Shah, on the Shastras. It was really delightful to see a Muhammadan having acquired so much knowledge of the Vedas, of the Puranas and of the Shastras which even I, a Hindu, have not been able to attain. It is really a credit to him that he gave us not only his own views but views based upon the Vedas and the Shastras that he has read. That of course is apart from the question at issue today. However, what I mean to say is this, that we should really at this time see as to how the times are progressive. Nobody wants that there should be stagnation, and, therefore, to say that old ideas and old dicta should remain for ever is a point for consideration,—because we are within a world where a certain wave, an alien wave has come in, and especially after easy communications and the introduction of air-flying we find that the changes are coming very speedily. But that does not show at all that we should go forward at once and rise to the top by an aeroplane. Now this question whether all castes amongst the Hindus should be allowed to inter-marry is a very big question. It will be recognized that at present in the country there is already

that question of untouchability, and there is the question of the Harijans. Now these questions have been taken up and they are progressing; and it is a great delight for us to hear and to see that they are progressing. Let us by all means see that the Harijans are allowed to follow whatever avocations they like and to perform whatever functions they like; and also in the matter of their temple-entry; they will come to a certain stage when they can themselves claim and say, "we want to inter-marry, and now everything has else been attained". However, in reality that time is yet I think far away. If I may tell my friend, Dr. Bhagavan Das, I do not want to take up the attitude that Sir Muhammad Yakub took up. I am sorry my friend, Sir Muhammad Yakub, is not in his seat just now, but he was so very enthusiastic about this Bill while supporting Dr. Bhagavan Das that I could not help wondering why he has suddenly become a reformist and a non-communalist, because I think it was not only once, but twice or thrice that he said "I certainly support this Bill". I think it was only to please my friend, Dr. Bhagavan Das. Now, I ask—would he have taken up that attitude if this question was not exclusively for Hindus? Now, the Bill aims at making marriages between different castes of Hindus valid. I would put a pertinent question to my Honourable friend, Sir Muhammad Yakub, and I think he would not have been able to answer it or he would have answered it in the negative. Supposing Dr. Bhagavan Das had taken up this Bill not for the Hindus alone, but had provided it like this: "No marriage among the Hindus shall be invalid by reason that the parties thereto not belonging to the same caste" and then he would have also added "and religion". In other words, if he had said that if a marriage takes place amongst the Hindus of different castes and also amongst people of different religions, then my Honourable friend, Sir Muhammad Yakub, would at once have got up to oppose it. He would have opposed it more than he did the Arya Samaj Marriage Bill.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

If he is asked whether he is in favour of a Hindu marrying a Muslim girl, he would say "No". Therefore, I say that his enthusiasm this morning in support of this Bill was due to the fact that his community was not going to be affected at all. Why did he not say that he was going to please Dr. Bhagavan Das by supporting him because in the case of the Arya Marriage Bill he went so far as to even oppose the postponement of it unless he got the assurance from the Leader of the House that the Government would remain neutral hereafter? That is the mentality of Sir Muhammad Yakub. Therefore, I say we should not be deceived by his opinion. We should decide this question ourselves because only those persons alone are competent to decide it whom it affects. Here I would like to tell my Honourable friend, Dr. Bhagavan Das, one thing and he should not think that I am against the object which underlies his Bill. But I must tell him that the Bill is not properly framed.

Dr. Bhagavan Das: That is why I have put you on the Select Committee.

Mr. Lalchand Nayalrai: The Select Committee cannot do anything to remodel it. This point has been fully explained by the Honourable the Leader of the House and I need not repeat it. I hope the Doctor has

[Mr. Lalchand Navalrai.]

understood what the Leader of the House has said and I think we must agree on the point that legally this Bill cannot go to the Select Committee when there has been only a declaration asked for its validity. May I ask what will be the consequences of it? In the case of the Arya Samaj Marriage Bill there was a clause as to how the question of succession will be dealt with and so on. But this Bill does not show what would be the effect of that declaration. Any declaration without consequential relief is generally not good. So, what I want to tell the Doctor is that consequential relief ought to be asked. Unless that consequential relief is asked, my Honourable friend cannot with justification say: "Let this Bill be taken to the Select Committee and there we shall discuss all the points; we shall open all the doors and the whole of the Hindu law, Manu's Puranas and all other Shastras will be considered by the Select Committee."

Dr. Bhagavan Das: Will it not be possible for the Select Committee to add these consequential amendments?

Mr. Lalchand Navalrai: No, because in that case they will go beyond your declaration. But if they do that, then they will take up first the Hindu law and there bring out the consequential question of the adoption. Then they will take up the question of the guardianship, the question of a joint family and next decide other questions of the consequential relief. In that case you will be modifying the whole of the Hindu law but the public opinions have not been elicited on that subject. Therefore, I say that this Bill in its present form cannot go to the Select Committee. I am sorry that the members of the Congress Party and others are not in the House. Had they been here, we would have heard more not only on the question of validity but also on the question whether a Select Committee could do anything more and whether they could revise the whole of the Hindu law. At present we have got the opinion of the Leader of the House and it appeals to me also that the rules do not permit that this Bill can go to the Select Committee. My friend, Dr. Bhagavan Das, should not misunderstand me; I am not supporting him on the motion owing to its technicality.

Bhai Parma Nand (West Punjab: Non-Muhammadan): Sir, I congratulate Dr. Bhagavan Das on his very learned and scholarly speech. He has placed before us very admirably the views that are found in the old Shastras according to the Vedic teachings. At the same time, I was surprised to hear my Honourable friend, Sir Muhammad Yakub, who, I am sorry, is not here, intervening in this debate and in a spirit indicating that he could not really understand the position of the Hindus on this question. He began by saying that he did not expect the attitude which the Honourable the Law Member had taken on this Bill. He considered him to be a great social reformer, and, therefore, he thought that full support would be given by him to this Bill as he had seen him give that support to the Arya Marriage Validation Bill.

I wish to clear one misunderstanding in this matter. The position of the Arya Marriage Bill and that of Dr. Bhagavan Das' Bill are quite different from each other. The Arya Marriage Bill was brought because the Arya Samajists as a community wanted the validation of the marriages which they perform according to their own Vedic rites, but in this case the question concerns the whole Hindu people. The Honourable the Law

Member was perfectly right when he expressed his views on this subject which concerns the Hindus as a whole and not any particular portion of them. Therefore, while it was quite proper and legitimate for the Honourable the Law Member to support the Arva Marriage Bill, he could not lend his support to a Bill which concerned the community as a whole and for which he thought the community was not prepared at all. The question in this case is much more serious.

Personally, I belong to a school which not only wants reform in the Hindu society but much more, I am a social revolutionary.

An Honourable Member: Not a political revolutionary?

Bhai Parma Nand: Yes, once I was much more than a political revolutionary. That thing apart, it is now about 15 years that I founded a society for the abolition of the caste system among Hindus. Having such views of the caste system, it is not possible for me to argue against the Bill that has been brought here by Dr. Bhagavan Das. But looking at the legal aspect, as has been explained by the Honourable the Law Member, I am really in a fix as to what to do. I cannot say whether it should be supported and passed by this House or otherwise. The question is somewhat serious, and as the debate has been introduced in a controversial spirit, I have first to express my views on this subject.

There are people in this country who are advanced reformers. Their views may be taken in two lights as those of religious reformers or those of pure and simple nationalists. From a nationalist point of view it is thought that the Hindus cannot be united as one nation as long as they are divided by these caste distinctions and differences. On that ground, therefore, the nationalists naturally oppose these caste distinctions. On the other hand, our Sanatanist brethren say that they want to stick to the customs of their forefathers. They do not want to have any change. But their real trouble comes in when it is realised that we cannot keep ourselves in the same position in which we are for all time to come. Conditions around us are changing fast and the law is that if any society or people want to live, they must adapt themselves to their environments. If a society or people cannot adapt themselves to the surroundings, it is not possible for them to live. They must either change or they must perish. We are placed under foreign western influences. We have new things introduced in this country by this new democratic system of government. We cannot help noticing that caste distinctions and our differences, to which we attach so much importance in days gone by, are now gradually disappearing of their own accord without any effort on our part. The Sanatanists know it alright that things which they never dreamt of, have been happening. All classes of people, the high caste Brahman and the low class Shudra can now travel in the same train with each other sitting side by side on the same benches. The Sanatanists could never have imagined that their children would go and attend the same school and the same Universities and sit in the same class rooms along with the depressed class boys. The Sanatanist could never have dreamt of the day when he would have to drink at the same well or from the same water tap from which the depressed class people did. But all these things have happened. Yet in the face of all these if the Sanatanists want to stick to their old customs, they must either relax the rigidity of their views about religion or they shall have to accept a change and some kind of reform in their religious views.

[Bhai Parma Nand.]

A serious trouble arose after the announcement by Dr. Ambedkar of his intention to renounce the Hindu religion. That was the time when the question of allowing the depressed classes entry into temples was agitating the public mind and several organizations were interesting themselves in this matter. When Mahatma Gandhi took the trouble of getting a Bill on Temple Entry introduced in the last Assembly, this question took a very acute form. After the lapse of some time there was Dr. Ambedkar making that startling announcement that he did not care to enter into temples and he did not want any such privileges as a favour, but that as long as the depressed classes were locked down upon in the Hindu society, he could not tolerate to remain in that Hindu fold and that he was determined to renounce his Hindu faith and go to some other religion. This announcement gave a rude shock to Mahatma Gandhi and other Hindu organizations and they began to find out some way to pacify him. This question was taken up by the Hindu Mahasabha and was hotly discussed. Finally we came to the conclusion that we could not keep on the old distinctions as far as social and political matters were concerned, but at the same time we had no right to make any interference in the religious views of people. We decided that we must treat the so-called depressed classes as our equal brethren as far as social and political rights were concerned. This decision was the one important step which practically changed the views of many of us on this question of depressed classes. As I said, Dr. Ambedkar wanted equality and he affirmed that as long as caste-Hindus were not prepared to inter-marry with the depressed classes, the depressed classes would never take themselves to be Hindus and that in that case they would have to give up the Hindu fold some day or other. This seems to me one great reason which makes it necessary for Hindu leaders to support such a Bill that no restriction should be placed any more between inter-marriage among the various castes of Hindus. Both the nationalistic point of view and the point of view of reformers coincided on this question. The leader of the depressed classes, Dr. Ambedkar, wanted his people to renounce Hindu religion because the Hindu society did not treat the depressed classes as equals so far as marriage relationship was concerned. So far as religious freedom was concerned, he said that his people did not care to go into temples. Temple entry had no meaning for him. We wanted to live in Hindu society with self-respect and if this self-respect was not to be had, he advised his community to leave the Hindu fold. To put it more bluntly, the question before the Sanatanists is what do they want? Do they want that all these depressed class people should go out of Hindu society or remain as Hindus? I remember once there was a great discussion on this point among the Sanatanists themselves on the occasion of an anniversary. One great Swami, a leader of the Sanatanist group, held that the depressed classes should not be allowed to take water from the wells from which the higher class Hindus took it. One of his followers, a Pandit and an M.A., said that if that rule was followed strictly, all these depressed class people would go over to some other religion. The Swamiji argued that he wanted to preserve the purity of Sanatan Dharma just like the purity of a tank of water which becomes impure as soon as a particle of dirt is thrown into it. So if such a privilege was allowed to these people, Sanatan Dharma would become impure just like that tank. The follower very rightly said that if the whole population goes out of Hinduism there will be no body left to look after the purity of these wells and tanks. I think

the question has to be settled in that light for ever, whether you want to allow these people these privileges or not. These privileges are of three different kinds. The first is that untouchability should be abolished. It was considered some years ago that by the touch of a man of low class you were polluted, but now that seems to be almost gone. Then there is the question of interdining. Nobody would like to eat at the same table with the lower classes.

Babu Baijnath Bajoria: Sir, on a point of order, the question before the House is inter-caste marriages and not interdining or untouchability or other things.

Bhai Parma Nand: I am pointing out that there were three kinds of distinctions,—untouchability, interdining and inter-marriage. The first has disappeared, the second is also disappearing, but the bar to inter-marriage remains, although efforts are being made by people to do away with these restrictions on intermarriage. The reformers want to keep the solidarity of the nation and so they want to keep the depressed classes within the Hindu fold. The Sanatanists do not care whether the number of people in the society is reduced or whether a large number of people leave the Hindu society. They want to stick to their own views and keep up their old customs not minding the great harm which might result. There are other people, call them reformers or by any other name, who think that this view is not right and they must change with the times and revise their customs and usages.

Turning to the religious side, the Sanatanists think that these social customs and usages are the fundamentals of religion, and if they are changed, their religion will go to pieces. But the other people believe the fundamentals to be entirely different. They believe in certain eternal principles which make up the religion of the Hindus or of the ancient Aryas. Those principles they want to preserve, but they think that these customs and usages have always been changing. Similarly they would say that the Vedas are eternal but the Smritis (law books) have been made by the Rishis and have been changing with the times. At one time one Rishi made one Smriti and at another time another Rishi made another Smriti. The Smritis which give us customs and usages have been changed by different Rishis at different times. The main point, therefore, is whether this question of inter-marriage is really a social one or a fundamental religious question. The Sanatanists may hold their own views but other Hindus have a right to hold different views as to whether it is a custom or a fundamental principle of religion.

Another point of importance in this connection is whether this division of society into four Varnas depends upon birth or whether it depends upon the temperament, actions or merits of a man. This is a debatable point and somewhat controversial. One can give quotations from the Shastras to prove that it depends upon the actions of a man and not upon his birth. Even Manu says that everybody is born a Sudra and he gets his Varna according to the profession that he adopts in his life. The Bhagvad Gita also says the same thing: "I have created these four Varnas according to the actions and merits of different persons". So if you once admit that this division depends upon birth and that there can be no change from one class to another, naturally there can be no inter-marriage among different Varnas, the purity of blood and efficiency of class should be maintained. But if you find instances in which persons were raised from a low class to a high class, so much that better Shudras were elevated,

[Bhai Parma Nand.]

Brahmans became Rishis, one cannot say that this division into Varnas depends solely on birth. There is the well known case of the illustrious Rishi Vyaṣ who was of low birth, but became the greatest Rishi and the author of various Puranas. So you have got to decide this point. If you find that there have been changes and persons of one Varna have gone up to a higher Varna, then the restrictions on inter-marriages cannot stand as essential part of religion.

Coming to the real point in the Bill the position laid down by Dr. Bhagavan Das is an ideal one, for national unity, for religious reform, for reform of the society and for removing all dissensions and troubles created in the Hindu society on account of differences of high and low caste. Inter-marriage is the normal condition in all societies everywhere on earth. It may be that to a certain extent the constitution of the Hindu society is based on the fabric of caste system or rather it used to be so at one time: it was not so in the Vedic age: it was not so in the Buddhistic times for over a thousand years. Buddhistic society was entirely opposed to caste and the caste system did not prevail consistent with the teachings of Budha. It was only that during the age when the Puranas exercised supreme authority, the caste system was introduced. It might have come into existence in different ways. But the original Varnas were four; and even supposing that these four Varnas were based on birth, how can we imagine that the 7,000 and so many castes which we now have are based on birth? One thing is quite clear: even if the original division of society into four Varnas might have been based on birth; it is impossible to trace the origin of these castes limitless in number and find out any reasonable bases for them. The Kshatriyas are divided into a vast number of sub-castes: the Vaisyas are divided into a number of sub-castes and so on. We now find that changes are taking place and these subcastes among the Kshatriyas, Vaisyas are disappearing gradually: the sub-castes among the Brahmins also will soon disappear. It is natural to hope that time may also come when the division into these four Varnas will not depend on birth but upon the temperament, actions and qualities of persons.

As I said before, the position in the Bill is an ideal one, but I do not think that it is very easy to attain that ideal by one simple legislation. I would rather agree with the position taken up by the Honourable the Law Member that if the Hindu society is not prepared for it and they do not want it, it would not be right for this Assembly to pass this legislation. The proper way would be to create a desire among the people first: otherwise, this legislation would amount to forcing a reform on the people and would mean putting the cart before the horse. I believe that the caste system is not good for Hindu society: it is a great obstacle in the way of our progress and if we do not change according to the circumstances, we can never progress: progress means change and if we want to progress, we must have a change in our society. But it is the people who should be changed. If we cannot change the people and they do not want any change, simply thrusting a law upon them would not serve any good or useful purpose. I think therefore that if Dr. Bhagavan Das and his friends wish to reform the Hindu society, their field of work is out among the people and not here in this Assembly. We must first create a desire in the minds of the people. If there are a few individual cases of love marriages, as my friend, Captain Sher Muhammad Khan, said, there is a

way open for them: there is the Special Marriage Act: they can get married civilly. Such cases however do not indicate a general desire among the Hindus for a reform of this system. It is only when such a desire is created that this House can take the matter into consideration. While therefore fully sympathising with the principle of this Bill—I am not objecting to take it to the Select Committee if he wants it—I do not think it will be a right step for this House to take.

Sir Abdul Halim Ghuznavi: Sir, at this late hour I am only intervening to express my point of view so far as this Bill is concerned. This House has to see whether they agree to the principle of this Bill. If they agree to the principle of the Bill, then I think they should vote for sending it to Select Committee. But if they do not agree with the principle of this Bill, then the Bill automatically comes to an end here. The Statement of Objects and Reasons says:

“Under the Hindu law as interpreted, marriages between Hindus of different castes are held illegal. This interpretation, besides being open to question, has caused serious hardship in individual cases and is calculated to retard the progress of the community. The Bill, therefore, seeks to provide that such marriages shall not be invalid.”

As the Honourable the Leader of the House said, there is an Act existing on the Statute-book that these marriages will be held valid and therefore another Bill of this kind is not at all necessary. Any one who wants to marry between different castes can have those marriages which will be valid under the present Act. He also pointed out that the Mover of the Bill, Dr. Bhagavan Das, must have had something else in his mind other than merely legalising inter-caste marriages; and his not saying so openly in the Statement of Objects and Reasons surely makes it very difficult for him to get this House to agree to the principle of his Bill.

It is entirely for the Hindu community to say whether they agree to this Bill or not. It is for them to say whether they support Dr. Bhagavan Das in the principle of the Bill he has brought up. From the various speeches to which we have listened today, we find that the Hindu community is unanimous in not supporting my friend, Dr. Bhagavan Das, and, therefore, as my friend, Bhai Parma Nand, said, it would be far better for our friend, Dr. Bhagavan Das, if he wants to proceed with this Bill, to come to this House again with the Hindu opinion behind him. With these observations, Sir, I leave it to the House to decide what they should do with regard to this Bill.

Dr. Bhagavan Das: Sir, my very highly esteemed friend, the Honourable the Leader of the House, has credited me with far greater subtlety than I possess. If there is anything lacking in the Bill—the Honourable the Leader of the House said that there is very much lacking, indeed he said that 15½ annas is lacking and only half an anna is there—if there is this great lack, it is due to my lack of intelligence rather than to a superfluity of subtlety. During the whole of the recess period, I have been carefully trying to examine myself to find out the difference between “the back of my mind”—the Law Member said I had some things “at the back of my mind”—and the front of my mind, and I have not been able to discover any such two divisions in my mind at all. If there is anything implicit, and wanting explicit statement, in the Bill, I have tried to explain it all in the lengthy speech which the House very graciously

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permitted me to read out to it despite its dullness. Sir, I think I said, at the time I introduced this Bill with the kind permission of the House, that it was nothing new. I was simply repeating the words of our late illustrious President Vithalbai Patel. He had brought in a Bill in exactly the same words, and I, not having any legal training worth mentioning, and certainly not such an immense training in law and legal fictions as my very esteemed friend, the Honourable the Leader of the House, has had, contented myself with copying the Bill brought in by the late Mr. Vithalbai Patel word for word, out of faith in his legal acumen as well as patriotism. But it is felt that I have brought it forward in a very imperfect shape. I admit that I also feel that it needs additions. It is because of this that, in guileless simplicity of mind, I have requested the House to appoint a Select Committee for which I have suggested names of Members holding all sorts of different kinds of views, in just this hope that they would help to perfect the Bill from different viewpoints. The Leader of the House will of course be there, and as Leader and Chairman too, and not merely as an ordinary Member. I have suggested the name of my kind friend, Mr. Baijnath Bajoria, who, I have known all along, is opposed to the measure; also the names of Mr. Lalchand Navalrai, Bhai Parmanand, and of Sir Muhammad Yakub who, to my very agreeable surprise, has supported my motion. After having said this, I shall try to the best of my very poor and feeble ability to meet the arguments that have been put forward by the speakers who have opposed my simple motion that the Bill be referred to a Select Committee.

Sir, I will try to take the opposing speakers in order. I will begin with the Honourable the Law Member's objections. If I understood him rightly, he said that my Bill did not contain such provisions as Gour's Act contains, and that such provisions were wanted in order to make the Bill fit to refer to a Select Committee. It seems to me that if I were to put into this Bill all the provisions that already exist on the Statute-book in the shape of Gour's Act, there would be no necessity for this Bill at all. It is just because I want to give to the Hindu community a chance, which Dr. Gour's Act does not give them, that I have brought forward this Bill. As I have tried to explain in my opening speech, and as has been pointed out by one of the District Judges, whose opinion forms one of the opinions that have been collected by the Government, there is a radical difference between this Bill and that Act. Gour's Special Marriage Act of 1923, automatically effects the severance of a pair who have contracted an intercaste marriage, from their joint family if they happen to belong to one. There are, to my knowledge, some joint families which do not wish that any members of theirs who contract such an intercaste marriage should be automatically severed from them; Gour's Act would prevent them from having their wish. Then again, the right of adoption is lost by such a marriage, under that Act. I do not see sufficient reason why that right should be taken away from them. Also, they have, under Gour's Act, to register their marriage before a Registrar; but many young people do not wish to do that, and wish to have their marriages performed according to the usual Hindu rites. Also, Gour's Act takes away from such a pair the right to hold any religious office or to manage any religious or charitable trust. I do not see why, if the other trustees of such a trust or the persons concerned in the

proper performance of such a religious office, are not antagonistic to this pair, that pair should be excluded from the performance of that religious office or from sharing in the charge of that trust. It will be for the Select Committee to add provisions regarding such matters; they will have to make consequential amendments to the effect that, unless any member of the joint family wishes otherwise, the pair will be allowed to remain joint with them, or that, unless the founder of the trust or any existing member of the trust expresses unwillingness that such a pair should be allowed to participate in that trust as a trustee, they will be allowed to do so. All these things are matter for consequential amendments which the Select Committee can make. I do not see why that opportunity should not be given to this Bill. The Honourable the Leader of the House said that the Bill is not permissive, and that it compels people to accept such pairs into a joint family. I do not see at all how it compels them. Even today, in the case of joint families where all the members are Sanatanists, differences of opinion and quarrels of all kinds are constantly occurring between members of the joint family, between brothers, between wives of brothers, between cousins, and they have to separate and partition off. If they have the needed common sense, and if benevolent elders are there to advise them, such a partition is made amicably and peacefully without resort to ruinous law Courts. Some such provisions should be made in cases contemplated by this Bill also. If an inter-caste-marriage pair is unacceptable to any members of the joint family to which they may happen to belong, then by some simple process they might insist on the new pair partitioning off with their property. For such reasons I think that we do want a Bill which will be distinct from Dr. Gour's Act.

As I have tried to show, Hinduism is an immense synthesis. Let us have provision for all kinds of tastes and temperaments. Those who are fully modernised can take advantage of Dr. Gour's and other such Acts. Those who are not so fully modernised, but are in the course of transition, and want to retain some of the old religious spirit and true spirituality which is inseparable from a sacramental marriage—for them I think there should be sufficient opportunity made by this Legislature. If I remember rightly, the Honourable the Law Member said that the Hindus are against this Bill. But, as I said before, in the opinions collected by the Central Government itself, if the Honourable the Law Member will very kindly look through those opinions, he will find that the majority of the opinions are in favour of this Bill. And opinions given by whom? By Governors of provinces, by their Councillors, by High Court Judges, by District and Sessions Judges, by Bar Associations, people who are always in intimate touch with the common people, constantly having to deal with litigants of all sorts, and who, therefore, are in a very good position to give reliable opinions on this matter. I am at a loss to understand why the Honourable the Leader of the House thinks that the Hindu people as a whole are against this Bill. I do not think so. In my own knowledge there are very many actual cases of inter-caste-marriage. In this Assembly itself there are Members whose children have contracted inter-caste marriages. Some of my friends have said that the mover of such a Bill should come with the support of the whole Hindu community behind him. If he had the support of the whole Hindu community behind him, it would be perfectly unnecessary for him to come to the Legislature at all. The need to seek the help of the Legislature arises only during

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transition periods. When the transition has been completely made, the aid of the Legislature is not wanted.

As regards my Honourable friend, Sir Muhammad Yakub's remarks, I have nothing but admiration for them. I do think that my kind friend, Mr. Lalchand Navalrai, misunderstood him greatly. He challenged him in respect of one or two things. He said, if I had come forward with a Bill for validating not only inter-caste but inter-creed marriages, Sir Muhammad Yakub would have spoken very differently. Well, I do not hold that position. As I have tried to explain in my opening speech, Hinduism, properly understood, has no need to proselytize, because the whole Human Race is already included in its pale. The old Dharma Shastra is known as the Manava Dharma Shastra. Manava is man; indeed the two words, Sanskrit and English, respectively, are the same, etymologically. It is "human" right and duty, it is "human" Shastra, Science. Shastra, again, etymologically means the same thing as Science. Shas, to know, Shams, to inform, are the same as the latin word scire, to know. Sound knowledge, true knowledge, is Shastra as well as Science. The Manava-Dharma-Shastra does not insist upon any change of religion. As is surely known to everybody here, Hinduism includes all sorts of beliefs of all sorts of sects, Vaishnavas, Shaktas, and Saivas, and so forth. Buddhism, Jainism, and Sikhism are only the more important reform movements within the pale of Hinduism. If our Pandits had only the necessary largeness of heart and far-sightedness of vision—not to speak of largeness of head, for I am sure many of them are far abler in head than I am, but I am afraid I cannot help saying that they have no longer the large heart that they should have—if they had only that large heart, they would be able to include human beings of all races and of all creeds under the name of Hindus, that is to say, Manava, man. Islam is one of the many ways to God. The Prophet has said that there are as many ways to God as there are souls, and very rightly. Just as every human being has a face different from all other faces, although some features are common to all faces—we all of us have eyes, nose and ears, and yet no two faces are exactly alike—so every soul has a way to God which is more or less different from the ways of all others, though the goal of all is the same. Hinduism recognises this fully. It is a great synthesis of all kinds of human beings and their ways. My very kind friend, Mr. Umar Ali Shah, learned in Sanskrit, referred to eight kinds of marriage. That is only a proof of the synthesising and reconciling nature of Hinduism. I am afraid my very dear young friend, Mr. Bajoria, has rather mixed up the two words, temper and temperament. The two words mean two very different things. We are changing temper, every one of us, from time to time, unless we have been duly disciplined and become self-controlled, when we are able to maintain an equable temper for at least a great length of time until very grievously provoked. Dwija-ta or twice-bornness, re-generation, leads to such self-control. Human beings are clearly not born physically twice on this earth, in the same life. The second birth must obviously be taken in a metaphorical sense and not in a literal sense. What is that metaphorical sense? It cannot be anything else than is meant by the plain simple English words, twice-born, regenerate. The word regenerate is a very common and well known and well recognised English word. It is absolutely a literal translation of the Sanskrit word Dwi-ja, re-born, regenerate, and, as Christ said

“Unless ye be born again ye cannot enter the Kingdom of Heaven”. This means in plain simple ordinary language, unless you attain to due self-control, that second birth which makes a man regenerate, which brings to him true civilisation, not a mere veneer of civilisation, fashionable clothes, flashy talk, affectations in language and manners, but real regeneration of the whole inner nature, civilisation of heart—unless you do that, you cannot enter the Kingdom of Heaven. If all human beings, or at least if a majority of human beings, attain to that true civilisation and true regeneration, then the Kingdom of Heaven would indeed descend on earth, would be seen on earth in the actions of men. That is just what the old great prophets and teachers and messiahs have meant. Well, now, Sir Muhammad Yakub, I think, meant nothing else than this, that the fundamental principles of Islam are the same as the fundamental principles which I have humbly and most feebly and most inadequately tried to expound in the speech which I inflicted upon the House this morning; and if my interpretation of what he said is correct, then I see no reason why my dear friend, Mr. Lalchand Navalrai, should take any objection to that. There is no occasion for any challenge. Rather, there is occasion for congratulation and welcoming. If Sir Muhammad Yakub calls those principles by the name of Muslim and Mr. Lalchand Navalrai calls them by the name of Arya, it is only a difference of language, not of spirit, not of heart or principle. Why should we insist upon our own favourite wording only?

Mr. Lalchand Navalrai: I thought he was only enthusiastic about it.

Dr. Bhagavan Das: Let us give credit, and we shall create good reason for giving that credit; the person tries to become worthy of the credit. If we give debit, the person becomes debitable. If you trust, you breed trust. Hate and you breed hate. Give love and you will evoke love. Therefore, let us trust and not challenge. If we challenge, it will be answered by a counter-challenge, and only blows will result. That is not true civilisation. That is not true Dwija-ta, not true regeneration.

Mr. Lalchand Navalrai: We have yet to see his view hereafter.

Dr. Bhagavan Das: As he has supported me today, he will continue to support me afterwards, I believe; and, in any case, even if his views change, my views will remain the same, I hope.

Sir Muhammad Yamin Khan endeavoured to speak on behalf of his electorate and his zamindari tenants. I know something about that also. I also happen to hold a few pieces of villages and I have some dealings with the tenants in them. I know the great trouble that many of these small sub-castes are in because they cannot find suitable matches. Two Kanya-kubja friends have told me that, by process of ex-communication, either because of having touched an untouchable, or dined with an untouchable, or having crossed the black water, or such other reasonless reasons, the members of one sub-sub-sub-caste among them, the *pankti-pawanas*, had become very greatly reduced; and for purposes of marriage they had to make alliances now within the prohibited degrees of consanguinity. Another friend from Bengal told me that amongst the so-called untouchable classes there was very great difficulty felt, owing to reduction of numbers, in finding suitable matches, and, because of this, many small sub-castes were becoming amalgamated. Those of us Hindus who live in

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certain closed circles, and do not look about us, feel, as I am afraid my friend Babu Baijnath Bajoria, feels, that our way of living is the only way of living for the whole of Hindudom. That is not so. All sorts of customs are prevailing. Divorce is allowed in Manu and Parashara. The speech of my friend, Mr. Umar Ali Shah, delighted me by its knowledge of Sanskrit but greatly distressed me at the same time because of his clinging to old and harmful interpretations. I feel that those interpretations are at the back of our communal troubles. Mr. Umar Aly Shah proclaimed himself a stronger Sanatanist than even my friend, Babu Baijnath Bajoria. He spoke of Manu-Smriti as having 57,000 shlokas. I do not happen to have seen such a huge version of the work. The current edition, with which I have had to content myself, consists of between 2,600 and 2,700, and not 57,000 shlokas. There are eight commentaries current on Manu. The eight commentaries, taken together, may perhaps amount to 57,000 shlokas. Most of them have been translated into English by my friend, Mahamahopadhyaya Ganganath Jha. I have not seen all the commentaries. I have confined myself to the text, and preferred to make simple interpretations, in the light of the Nirukta and the Kosha rather than in the light of the often very involved and forced, strained and obscure, interpretations of many of these commentators. Mr. Umar Aly Shah laid great stress on the fact that I have not made any reference to Parashara Smriti, and he said that Parashara Smriti amounted to 75 thousand slokas. I am afraid I have not so carefully studied Parashara Smriti as I have tried to study Manu Smriti. It is a very much smaller book than even Manu's. He said that the laws of Parashara are to be followed in the Kali Yuga, implying that those of Manu are not to be followed. Kaliyuga means the present age of competition, struggle, and discord. I do not know whether Mr. Umar Aly Shah would accept that interpretation of the 'Kali' age. The word Kali actually means kalaha, i.e., discord, and struggle for existence rather than alliance for existence; and we are all feeling acutely how very true that description is of the present age, in the East as well as the West. This is the age of conflict and of struggle for existence par excellence. Nations are ready to cut each other's throats, and to exterminate each other, with immense armaments. Well, so far as Parashara is concerned, I am able to say that, indisputably, Manu is the accepted basis of all the subsequent Smritis. There are twenty-eight or twenty-nine of them current now; many have been lost; but none of them ventures to dispute the authority of Manu, who is the basis, the foundation, the root, of the socio-religious polity which is now known as the Hindu polity. The difference between Manu and Parashara is not one of antagonism at all, but one of slight modifications. What the current shloka "*Kalau Prasharah Smritah*" means, is this: that certain modifications have been made in the laws of Manu, here and there, in accordance with the needs of the Kali-yuga times, by Parashara; which, indeed, is proof that Hindu society is not a hide-bound society, nor Hindu laws made up once for all, and unchanging, like the so-called laws of the Medes and the Persians. I am sure that those too were also changing, when the Medes and the Persians were living races. The mere fact that there have been 28 Smriti-Karas since Manu, means that the principle of living legislation has been amply recognized by the Hindu people; and in Manu-smriti itself this principle has been clearly laid down. If the subsequent law-makers,

the Smriti-Karas, have ventured to make any modifications in Manu's laws in accordance with the changing circumstances, that too has been made under the express authority of Manu himself.

“An-amnateshu dharmeshu katham syad iti ched bhavet,
Yam shishta brahmanah bruyuh, sadharmah syad ashankitah;
Dharmen-adhigato yais-tu Vedah sa-pari brimhanah,
Te shishtah brahmanah jnyéyah, Shruti-pratyaksha-hetawah.”

“In those cases where the existing law is silent, or if new conditions should arise which are not covered by the existing law, or a change of *dés*ha and *kala* and *nimitta* should necessitate a change in the law, then, the law that is made newly by the Shishta Brahmanas shall be the law. The Shishta Brahmanas are those who have been duly instructed in the Vedas, i.e., sciences, and the upa-brimhanas, i.e., history, human and cosmic, and can demonstrate the truths of the Ved-sciences. Such only are Shishta Brahmanas.”

Modern western laws lay down qualifications for the electors; they do not lay down qualifications for the electees. Manu, instead, lays down qualifications for the electees, who are going to make the law, and none at all for the electors. A French writer on politics, in whose time there were only 27 millions of people in France, has said that foolishness divided by 27 millions and multiplied again by 27 millions at the polling-booths—does not make wisdom. (Laughter.) Therefore, the electors ought to be guided by laws which will lay down the moral and intellectual qualifications of those who have to be elected by their votes, so that the electees may be good and wise law-makers. If that is done, then only can we have good and wise laws. Otherwise, by haphazard, temporising, patch-work, palliatives, they would try to cure one evil, which seems to be prominent at the time, but, not being able to see sufficiently far ahead, they would create ten new evils which are worse than the original evil. This has been recognized by such a great thinker and writer as Herbert Spencer. He has, in his “Principles of Sociology”, discussed these things, and said that the majority of modern legislators are unable to follow the reverberations and repercussions and consequences of the laws that they advocate and bring to the anvil of legislation, in all the departments of life; and, I believe, he or somebody else has provided an illustration.

Babu Baijnath Bajoria: Sir, are these references relevant to the debate just now?

Dr. Bhagavan Das: If the President thinks it is irrelevant, I shall submit my explanation of the relevancy most humbly. I am showing how in this matter of the interpretation of the laws of Manu, it has been modified from time to time by Parashara, and I was only giving some illustrations from English law.

Babu Baijnath Bajoria: How is that relevant?

Dr. Bhagavan Das: Well, Sir, Charles Darwin has somewhere explained how the killing of cats, by a local board, in a certain district, brought about the failure of a crop of clover. Those who had advocated the killing of cats had forgotten the intermediate steps between cats and clover. Cats used to destroy the field-mice which used to destroy a certain kind of bees which made hives underneath the surface of the earth and were instrumental in fertilizing the flowers of that crop. Now the killing of these cats led to the multiplication of the field-mice, thence to the destruction of the bees,

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thence to the non-fertilisation of the flowers; thence to the failure of the crop. Well, legislators ought to be able to look far-sightedly in order to be able to make laws which will not create more evil than good. Now unfortunately our law-makers have obviously degenerated. (Laughter.) Sir, I do not mean the present company. I have the very greatest respect for the present law-makers. I am referring to the old Pandit law-makers, the successors of the Smriti-karas. They lost confidence in themselves, for various historical reasons. Shastra and shastra, science and military Power, Church and State, Brahmana and Kshatriya, Altar and Throne, were interdependent formerly, for purposes of helping and serving the people. The king was "the chief servant of the people". "*Prajanam ranjanad Raja*"; "the Raja is called Raja because he propitiates and pleases and serves the people in every way." That is the literal meaning of the word "Raja", not "govern-or" or "rul-er", or "emperor", i.e., 'orderer-about', and so forth, but "the chief servant of the people". Such was the relationship between the Old Church and State, Brahmana and Kshatriya, helping one another in the service of the people. The word "Kshatriya" means "he who protects the weak from being hurt by the strong". That is the etymological meaning. So the word "Brahmana" means "a man of knowledge, of science, of Brahma". What do we see today? What happened in India has been happening in the West. The man of science has prostituted his science to the service of the greedy, grasping capitalist, and of the bounding, jumping, imperialist militarist. That is the reason why we have this immense trouble and unrest over the whole face of the earth, when nations are trying to cut each other's throats and to exterminate each other, and when they are arming themselves to the teeth, organising for war and not organising for peace, which is very much easier and far more beneficent than organising for war. That happened to our Brahmanas and Kshatriyas also. The Kshatriyas took away the power of legislation from the Brahmanas and the Brahmanas became time-servers, court poets, flatterers and bards, instead of the supervisors and inspectors of kings. Hence, we have this degeneration. I am only trying to explain how the difference between Manu and Parashara, and again between the Smriti-karas and the Nibandha-karas arose. Here I will quote a shloka from one of the Smritis:

"Ashwa-lambham gawa-lambham, saunyasam, pala-patrikam,

Dévarat cha sut-otpattim, Kalau pancha vivarjayét."

"The horse-sacrifice, the cow-sacrifice, the anchorite-stage, the use of flesh in oblations to the ancestors, and marriage with a brother's widow—these five things, which were lawful in the earlier ages, shall not be lawful in the age of Kali."

This is an instance of how little modifications here and there were permissible, and were made; but the principles of the caste-class system remained untouched, always. For another instance, there is a Devala Smriti which is expressly said to have been written in Sind, and the whole purpose of it is to justify re-conversion and re-admission into the fold of Hinduism of such persons as were not themselves willing and desirous to go into other religions, but had been converted to them forcibly. Those who willingly desire to embrace other religions were at liberty to do so; but forcible conversion has been forbidden by all great reformers of religion. I believe Islam also does not permit forcible conversion. "*La ikraha fid din*" says the Holy Prophet.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): These are not the words of the Holy Prophet. They are the words of the Holy Quran.

Dr. Bhagavan Das: I stand corrected. As Maulana Rum has said:

*"Gar che Quran az labé paighambar ast,
Har ke goyad, Haq na gufta, Kafir ast."*

"Although the Quran was spoken by the lips of the Prophet, yet whosoever says that it was not spoken by Allah shall be regarded as a Kafir."

It is a Quranic text, and, therefore all the more binding. So, these later Smrities and others have been making small changes; but when their age came to an end, i.e., the age of the Smriti-karas, the legislators, who had sufficient confidence in themselves to be able to say that this shall be the law in modification of the older law; and when the smaller race of the commentators and the writers of digests, the Nibandha-karas, came in they did not have the same confidence in themselves, but were desirous of ministering to the baser motives of the kings to whose courts they were attached. So they used to make modifications in the older texts by means of interpretation. As I tried to say in my opening speech, they used to interpret those older laws somewhat in this way: "We do not dare to say that this shall be the law, but we do venture to say that this was what the old law-giver meant." From one point of view, it may be said that it does show respect for the old law-makers if we do not say: "Oh, your law is wrong and we shall repeal it and make a new one." They were more respectful to the older generation and the Indian tradition is that respect should be shown to the old generation. Therefore, they used to say: "This is what the old law-maker meant." That is one way of doing things and that is what our learned Judges do today, when they have to deal with laws made by legislators which they feel are not quite right. We all know that law really means the discretion of the law-applier and interpreter. If that discretion is wise, the law will be interpreted wisely, but if that discretion is unwise, the law will be interpreted unwisely.

Babu Baijnath Bajoria: May I know how all this is relevant to the question before the House?

Dr. Bhagavan Das: It is relevant in the way of commentary on Mr.

Umar Aly Shah's remarks. I am sorry he is not in his seat,
5 P.M. otherwise I am sure he would have appreciated what I am saying.

There were one or two other points in the speech of Mr. Umar Aly Shah. He spoke about Gotra being unchangeable. But, as I said, every Hindu here knows that the Gotra of a bride changes as soon as the marriage ceremony is completed. Although, by association, the word has come to mean the descendants of a common ancestor, etymologically it means a joint family of dairy-farmers and cowherds; gawah trayante anena kulena iti. In the pastoral and rural age, wealth meant flourishing cornfields and healthy cattle; dhanam dhanvam, uttamam go-dhanam dhanam; and even today, although we all believe in aeroplanes, submarines, and streamlined railways, and such other bravery of civilisation, if the cows disappear, all the babies would disappear, and the new generation would not live at all. So, underneath all the trappings of this modern civilisation,

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the fundamental truths of the primitive civilisation still last. The cows, the cattle, the milk, the corn-fields, are still the only real wealth of human beings. What we ought to do is to maintain the health which is the true wealth of the race. My Honourable friend, Mr. Umar Aly Shah, said that while the occupations of Brahmanas and Kshattriyas have been laid down by Manu and the other Smriti-karas, they have said nothing about the means of livelihood of Vaishyas and Shudras. I tried to say in my opening remarks that that is one of the very special and distinctive features of the old social organization, the socio-individual organization of the whole human race, which is of the utmost consequence. The means of livelihood of the four castes have been partitioned most clearly and definitely by Manu. He has said that the man of the learned professions shall derive his livelihood from teaching, from priestly functions and the giving of expert advice in pious and charitable public works, and from gifts and presents: that the man of the executive professions shall receive remuneration for protecting the people in various ways; that the tradesman shall earn his livelihood by agriculture, cattle-rearing, and trade; and the man of the labouring professions, by helping the others in return for adequate wages. Brahmanasya Adhyapanam, yajanam cha, vishuddhat cha pratigraha; Shastrastra-bhrittvam kshattrasya; vanik-pashu-krishir vishah (Manu). In those old days the teachers were not allowed to receive fixed salaries. That was regarded as *infra dig*. They had to receive honoraria. I have never been a Barrister myself, but I have heard that as regards the Barristers in England, the legal fiction is that they do not receive fees from the clients but only honoraria, which the barristers take good care to see are duly paid in good time beforehand.

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member conclude now?

Dr. Bhagavan Das: I have got much more to say. I have to meet the points raised by four more speakers.

Mr. President (The Honourable Sir Abdur Rahim): Then, the House will adjourn now.

The Assembly then adjourned till Eleven of the Clock on Friday, the 29th January, 1937.