

31st March 1938

THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume III, 1938

(24th March to 12th April, 1938)

SEVENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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Legislative Assembly.

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LEGISLATIVE ASSEMBLY

Thursday, 31st March, 1938.

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.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

MANUFACTURE OF AMMUNITION IN RAILWAY WORKSHOPS.

1116. ***Prof. N. G. Ranga:** (a) Will the Honourable Member for Railways be pleased to state if it is a fact that in the Great War of 1914—18 shell-cases were manufactured in the Ajmer and Matunga railway workshops?

(b) Will Government lay on the table a complete list of those Indian railway workshops where any part or parts of ammunition were manufactured during 1914—18?

(c) Will Government state whether any of the Indian railway workshops are equipped today with any special machinery, or technical personnel, to meet an emergency demand for the manufacture of any war equipment?

The Honourable Sir Thomas Stewart: (a) During the Great War of 1914—18 shell cases were manufactured in the Bombay, Baroda and Central India Railway Workshops at Ajmer. The construction of the Great Indian Peninsula Railway Workshop at Matunga was at that time insufficiently advanced to permit of its utilisation for the manufacture of munitions.

(b) I lay on the table a list of fifteen Indian Railway workshops in which the manufacture of shell cases was undertaken during 1914—18. A list of all the Indian Railway workshops in which any part or parts of ammunition were manufactured would embrace the names of practically every Railway workshop in India at that time.

(c) Railway workshops are not equipped with special machinery for the manufacture of munitions, but the plant and technical personnel can, in an emergency, be utilised for the manufacture of war equipment.

List of fifteen Indian Railway Workshops in which the Manufacture of Shell Cases was undertaken during 1914—18.

1. Kharagpur, Bengal Nagpur Railway.
2. Lahore, Locomotive, North Western Railway.
3. Lahore, Carriage and Wagon, North Western Railway.
4. Lucknow, Oudh & Rohilkhand Railway.
5. Kanchrapara, Eastern Bengal Railway.
6. Jamalpur, East Indian Railway.
7. Lilloah, East Indian Railway.
8. Parel, Great Indian Peninsula Railway.
9. Jhansi, Great Indian Peninsula Railway.
10. Parel, Bombay, Baroda and Central India Railways.
11. Ajmer, Locomotive, Bombay, Baroda and Central India Railway.
12. Ajmer, Carriage and Wagon, Bombay, Baroda and Central India Railway.
13. Perambur, Madras and Southern Mahratta Railway.
14. Hubli, Madras and Southern Mahratta Railway.
15. Negapatam, South Indian Railway.

Mr. Manu Subedar: Will the Honourable Member state whether any steps have been taken to get private workshops adapted to the production of defence materials in the event of an emergency?

The Honourable Sir Thomas Stewart: That question, I submit, does not arise out of my answer.

Prof. N. G. Ranga: What is the total approximate capital outlay that is needed in order to equip a railway workshop for the manufacture of war materials?

The Honourable Sir Thomas Stewart: I shall require notice of that question.

INTRODUCTION OF RETURN AND SEASON TICKETS FOR VENDORS ON THE ASSAM-BENGAL RAILWAY.

1117. ***Prof. N. G. Ranga:** (a) Will the Honourable Member for Railways be pleased to state if Government are aware of the fact that the Assam Bengal Railway authorities have introduced return and season tickets for produce vendors living in the Chittagong suburbs?

(b) Do Government propose to give similar trials of concession tickets to produce vendors living in the suburbs of all the important towns in India, with a view to stimulating the production and sale of milk, vegetables and other commodities consumed by the city-dwellers?

The Honourable Sir Thomas Stewart: (a) Government have seen a notification issued by the Assam Bengal Railway Administration introducing third class day return market tickets for produce vendors from three stations to Chittagong at two single journey fares with a free allowance of $1\frac{1}{2}$ maunds of market produce on the outward journey. As regards season tickets, these are issued generally over the Assam Bengal Railway system and are not restricted to produce vendors.

(b) Other Railways, such as the Eastern Bengal, East Indian, Great Indian Peninsula, Madras and Southern Mahratta and South Indian, issue season tickets generally and also produce or market vendors' tickets on certain sections where, in the opinion of the Administration, this arrangement can be reasonably justified.

CANCELLATION OF THE EXAMINATION FOR RECRUITMENT OF TELEPHONE OPERATORS HELD AT FEROZEPORE.

1118. ***Mr. Sham Lal:** (a) Will the Honourable Member for Communications be pleased to state if it is a fact that a competitive examination of the telephone operators was held at Ferozepore on the 25th March, 1937?

(b) Is it a fact that some of those who passed that examination have been working as temporary telephone operators since then?

(c) Was it understood that these persons would be confirmed in their posts in course of time?

(d) Is it a fact that the Director General, Posts and Telegraphs, has now issued a circular to D. E. T., Ferozepore, that the examination previously held is cancelled and all the candidates should pass another competitive examination conducted by the Postmaster General?

(e) What are the reasons for cancelling the previous examination?

(f) Are Government aware that this circular has involved great hardship and caused great resentment among the temporary hands who have been serving for the last one year?

(g) Are Government prepared to reconsider their decision and confirm the temporary hands in their posts?

The Honourable Sir Thomas Stewart: (a) The examination referred to was a local test held by the Divisional Engineer, Telegraphs, Ferozepore, to select suitable candidates for the approved list for employment as telephone operators.

(b) Yes.

(c) No. They were clearly told that they were appointed on a temporary basis and given to understand that they would have no claim to permanent appointment.

(d) No orders cancelling the examination held by the Divisional Engineer, Telegraphs, Ferozepore, were issued by the Director General. The prevailing methods of recruitment of telephone operators were replaced by a new system of recruitment by means of an open competitive examination to be held by the Head of the Circle. The new examination was announced in the Punjab and North-West Frontier Circle on the 6th June, 1937, and all candidates who were not permanently provided for before that date were required, if eligible, to appear at the examination. This applied equally to the temporary operators.

(e) Does not arise in view of the reply to part (d).

(f) No Sir. Government have granted to temporary operators an opportunity to appear at the next examination under the new rules by waiving the age limit in their favour.

(g) No.

CONSTRUCTION AND REPAIRS OF AEROPLANES IN INDIA.

1119. ***Mr. Manu Subedar:** Will the Honourable Member for Communications state:

(a) whether Government have inquired into the availability of materials required for (i) construction, and (ii) repairs, of aeroplanes in India;

(b) whether any difficulty has been found in this matter;

(c) whether Government have communicated with any business firms for (i) construction, and (ii) repairs, and, if so, what is the outcome of those negotiations;

(d) if the reply to part (c) be in the negative, whether Government propose to make inquiries and set up a small departmental committee to open such negotiations in order to find out the possibilities; and

(e) what the official attitude of Government is after considering the position of air force in the defence, regarding the possibility of securing the establishment of aeroplanes manufactured in India?

The Honourable Sir Thomas Stewart: (a) No.

(b) Does not arise.

(c) No.

(d) No.

(e) Government would welcome the establishment of an aeroplane manufacturing industry in India.

Mr. Manu Subedar: Have Government made any investigation as to whether any Indian materials can be used either now or in the future for the manufacture of aeroplanes?

The Honourable Sir Thomas Stewart: I said, no.

Mr. Manu Subedar: Do Government propose to make such an investigation?

The Honourable Sir Thomas Stewart: They are of opinion at present that such an investigation would be entirely useless.

Mr. Manu Subedar: Will this problem be entrusted to the Industrial Research Bureau?

The Honourable Sir Thomas Stewart: I have not announced any intention of undertaking any inquiry at all.

TENDERS FOR TRANSMITTING EQUIPMENT FOR BROADCASTING.

1120. ***Mr. Manu Subedar:** Will the Honourable Member for Communications state with regard to his answer to starred question No. 571 on the 2nd March, 1938:

- (a) full particulars of the limited tenders for transmitting equipment for broadcasting, which were called, including the date of the call of the tenders, the date of submission, and the date of decision thereon;
- (b) who took the decision for the orders to be placed where they were placed; and
- (c) whether Government have made an inquiry that the purchases made in this manner were not disadvantageous to India and were in the cheapest market?

The Honourable Sir Thomas Stewart: (a) and (b). The Honourable Member is referred to the reply I gave to his starred question No. 1030 on 28th March, 1938, in this House. The High Commissioner sent a detailed report on the tenders received from the two firms. It is a lengthy report and I do not think it will serve any useful purpose to lay it on the table. The Government of India asked the High Commissioner by telegram to call for restricted tenders on the 28th November, 1934; the last date for the receipt of tenders was the 14th December, 1934. The Government of India decided, on the recommendation of the High Commissioner, to accept Messrs. Marconi's tender on the 29th December, 1934, and issued directions accordingly.

(c) In the circumstances which I have explained, yes.

Mr. Manu Subedar: Are Government satisfied that that was the cheapest purchase?

The Honourable Sir Thomas Stewart: Yes, Sir.

STARRED

INDIANISATION OF PORT TRUSTS.

CIRCULAR

1121. **Mr. Manu Subedar:** (a) With reference to the Honourable Member for Comr, will he lay on the table a copy of the circular sent out on the 2nd of March, 1938, of Indianisation of Port Trusts?

(b) From whom were representations received subsequent to the issue of the circular?

(c) Have any representation been received in regard to the appointment of the Chairman of any of the Port Trusts and, in particular, of the Port Trusts in Karachi and in Bombay?

(d) What reply have Government given to these representations?

(e) Are Government prepared to define their policy in the matter of the appointment of the Chairman of Port Trusts, laying down the conditions, under which alone Indians would be employed?

The Honourable Sir Thomas Stewart: (a) I would invite the attention of the Honourable Member to the reply given by me on the 28th March, 1938, to part (a) of his question No. 1029. A copy of the circular issued in April, 1938, was laid on the table of the House in reply to part (g) of question No. 156 asked by the Honourable Mr. Basanta Kumar Das on the 6th September, 1935.

(b) Among others from the Indian Merchants' Chamber, Bombay, the Buyers and Shippers' Chamber, Karachi, the Karachi Indian Merchants' Association and the Federation of Indian Chambers of Commerce and Industry.

(c) Yes.

(d) They have been acknowledged.

(e) No, Sir. Government are not prepared to adopt any policy which will make it incumbent on them to fill these appointments on racial grounds alone.

Mr. Manu Subedar: With regard to clause (c) of the question, was any representation received from the Government of Bombay?

The Honourable Sir Thomas Stewart: So far as I am aware, no.

Mr. K. Ahmed: Is it not a fact that yesterday's newspapers published the news of the appointment of an Indian gentleman as Chairman of the Bombay Port Trust?

The Honourable Sir Thomas Stewart: So far as I am aware, no.

MANNER OF ASCERTAINING OPINIONS ON BILLS, ETC., FROM PUBLIC AND SEMI-PUBLIC BODIES.

1122. **Mr. Manu Subedar:** Will the Honourable Member for Communications state:

(a) whether in addressing communications to the Secretaries or Chairman of public and semi-public bodies, Government address them in their capacity as representatives of such bodies or in their individual capacity;

- (b) whether in forwarding to such Secretaries or Chairmen Bills or other references for opinion, Government desire the views of the said Secretaries or Chairmen individually or views as representing the views of the Body in question;
- (c) whether the Bill to control the Coastal Traffic of India was sent, through the Government of Bombay, for the opinion of the Chairmen of the Bombay Port Trust; and if so, whether any opinion was received in reply;
- (d) if the reply to part (c) be in the affirmative, whether the said opinion was the individual opinion of the Chairman, or the collective opinion of the Port Trust, as representing the views of the Board of the Bombay Port Trust;
- (e) if it was only the individual opinion of the Chairman, whether Government propose to make it clear to him for his future guidance that in such matters Government always desire the opinion of the Body concerned; and
- (f) whether Government propose to issue similar instructions to heads of all such public bodies and semi-public bodies so as to remove any possible misunderstandings in the matter?

The Honourable Sir Thomas Stewart: (a) and (b). Ordinarily an official communication to the Chairman or Secretary of a public or semi-public body is addressed to him in his representative official capacity and any expression of opinion that is asked for or is given is regarded as the opinion of the body he represents.

(c) to (f). These questions fall within the sphere of the Commerce Department to whom I understand they have also been addressed. They will be answered in due course I take it by my Honourable friend, the Commerce Secretary.

Mr. Manu Subedar: The question of course is for the Honourable Member who has replied and with your permission, Sir, I should like to ask specifically whether with regard to this Coastal Traffic Bill the information received was regarded as the opinion of the Chairman or the opinion of the whole Board.

The Honourable Sir Thomas Stewart: The opinion was submitted to the Commerce Department and I suggest that the Honourable Member addresses his question to that department.

BEGGAR NUISANCE TO TRAVELLERS INSIDE THE RAILWAY PRECINCTS.

1123. ***Mr. Manu Subedar:** Will the Honourable Member for Communications state:

- (a) whether Government have satisfied themselves that they have got full legal rights to prosecute any trespassers, whether such trespassers are using railway platforms or railway permanent way, for purposes of begging or otherwise;
- (b) whether any prosecutions have taken place for beggary;
- (c) what sort of punishments are given at present;
- (d) whether Government are advised that the law at the present moment in this respect is not adequate; and

(e) what steps Government have taken to reduce the beggar nuisance to travellers inside the railway precincts?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) and (c). Government have no information: the matter being one for local railway officials to take cognizance of as and when occasion arises.

(d) No.

(e) No action was necessary, as Government were aware that Railway Administrations were taking such steps as they considered expedient to deal with the situation. I will, however, as already stated in my reply to the Honourable Member's supplementaries in connection with his question No. 721 on the 9th March, 1938, draw their attention to the desirability of improving matters in this respect.

Seth Govind Das: Are Government aware that this beggary is increasing on account of the economic policy of Government and on account of increasing unemployment.

The Honourable Sir Thomas Stewart: No.

Mr. Lalchand Navalrai: Is the Honourable Member aware that these beggars are allowed on the platform, out of pity, by the station staff themselves?

The Honourable Sir Thomas Stewart: I can easily believe that this is the reason why beggars are allowed on the platform.

Mr. Badri Dutt Pande: Is it a fact that this nuisance of beggary is the greatest on the Rohilkhand Kumaon Railway?

The Honourable Sir Thomas Stewart: I am not aware of it.

Mr. Lalchand Navalrai: Is the Honourable Member going to issue a circular to Station Masters through Agents not to allow beggars in as they are causing great inconvenience and are a nuisance to passengers?

The Honourable Sir Thomas Stewart: I refer him to my reply to part (e) of this question.

Mr. N. M. Joshi: May I ask whether Government will make a representation to Provincial Governments for providing poor houses or other institutions for these beggars?

The Honourable Sir Thomas Stewart: No, Sir, I do not think that is the function of this Government.

Mr. Badri Dutt Pande: Are they running special trains for the free carriage of *sadhus* to Hardwar?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise.

CONSTRUCTION OF AN OVERBRIDGE AT GONDIA RAILWAY STATION.

1124. ***Mr. Govind V. Deshmukh:** With reference to starred question No. 393, put on the 21st February, 1938, relating to the construction of an

overbridge at Gondia railway station, will the Honourable Member for Railways please state:

- (a) if any reminder was sent to the Central Provinces Government in connection with the railway inquiry of 1922, referred to in answer to part (d) of the question referred to above; if not, why not;
- (b) if his attention is drawn to the reply given by the Central Provinces Government to a question put in the Provincial Assembly that "no reply was sent to this enquiry, the matter having been apparently dropped";
- (c) if the matter of constructing an overbridge is dropped; if so, what are the grounds for this action;
- (d) what would be the cost of constructing the overbridge; and
- (e) if the Bengal Nagpur Railway or the Central Government propose to bear it; if not, why not?

The Honourable Sir Thomas Stewart: (a) and (c). Government have no information, but as the question was originally raised by the Director of Industries, Central Provinces Government, it would appear that it is for them to pursue it. Copies of all correspondence on the matter were sent to them in April, 1937.

(b) No.

(d) Government have no information.

(e) The cost would be divisible between the Bengal Nagpur Railway and the local authorities.

Mr. Govind V. Deshmukh: Will the Central Government bear a part of the cost of the overbridge?

The Honourable Sir Thomas Stewart: No, Sir.

Mr. Govind V. Deshmukh: Why not?

The Honourable Sir Thomas Stewart: Because we have nothing to do with it.

CONSIDERATION OF THE VOTE OF THE CENTRAL LEGISLATIVE ASSEMBLY ON THE MANUFACTURE OF LOCOMOTIVES AND BOILERS.

†1125. **Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Railway Member state:

- (a) whether Government considered the vote of this House during the Railway Budget discussions this year over the matter of the manufacture of locomotives and boilers; and
- (b) if so, what is the result of the consideration?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) Government do not propose to embark on the scheme of manufacturing either locomotives or boilers in India.

† Answer to this question laid on the table, the questioner being absent.

CONSTRUCTION OF THE ISHURDI-PABNA-SADHUGUNJ RAILWAY LINE.

†1126. *Mr. Akhil Chandra Datta: Will the Honourable Member in charge of Railways be pleased to state:

- (a) whether on the 6th February, 1922 a resolution for the construction of the Ishurdi-Pabna-Sadhugunj line was moved in the then Bengal Legislative Council and was accepted on behalf of the Government of Bengal;
- (b) whether in pursuance of that resolution the Government of Bengal recommended to the Government of India the construction of the said line;
- (c) whether it is a fact that the Government of India informed the Government of Bengal that the construction of this line depended on the adequacy of finance;
- (d) whether Government are prepared to direct the Agent, Eastern Bengal Railway, to make an alternative alignment for the project, from Ishurdi station to Pabna town via the big cattle market, Arabkhola, and then following the Pabna-Rajshahi Road through Madhupur, Dapunia and Cossipur, as this alignment will not only avoid motor competition but will pass through a densely populated area and trade marts and consequently lead to increased earnings from both coachings and goods;
- (e) whether Government have recently received representations from (i) Pabna Mahajan Samity, (ii) Pabna Bar Association, (iii) Municipal Commissioners of Pabna, and (iv) President of a public meeting held at Pabna on the 23rd January, 1938, urging the construction of this project; and
- (f) whether Government are prepared to direct the Agent, Eastern Bengal Railway, to make a detailed investigation and, on an examination of his report, to consider the advisability of sanctioning its construction at an early date?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) Yes, with the qualification that the Government of India should be in a position to allot funds for new construction.

(c) In 1928 the Government of India informed the Government of Bengal that, in view of the poor financial prospects of the project, it would be held in abeyance, and in 1930 they informed that Government that the project would be shelved indefinitely as unremunerative.

(d) and (f). Government do not consider that the reports already received warrant further investigation, unless the Provincial Government ask for it. It seems probable that the latter would have to be prepared to guarantee the project against loss, if it were to be constructed.

(e) Representations have been received from those mentioned in the question, with the exception that nothing appears to have come from the Pabna Bar Association.

[31st MARCH 1986.]

CONSTRUCTION OF THE ISHURDI-PABNA-SADHUGUNJ RAILWAY LINE.

†1127. ***Mr. Akhil Chandra Datta:** (a) Will the Honourable Member in charge of Railways be pleased to state whether intensions regarding the construction of the Ishurdi-Pabna-Sadhugunj Railway line were put in the Imperial Legislative Council by several Honourable Members in 1920?

(b) Is it a fact that late Colonel Sir William Waghorn, President of Railway Board in 1921, advised Mr. J. Choudhuri, M.L.A., then presenting Rajshahi and Chittagong Division in the Assembly, that Government were prepared to permit the construction of this line, if a company was floated to raise necessary funds for its construction, or if it could raise the advance loan to Government at an interest of 6 to 6½ per cent. and that, except those courses, there was no other way for speedy construction of this line?

(c) Is it a fact that a proposal for the construction of this line by private enterprise was forwarded to the Government of Bengal by the Commissioner of the Rajshahi Division in 1924, but that it was turned down by the Government of India?

(d) Is it a fact that the value of lands to be acquired for this project has considerably gone down since 1914-15, labour has become cheaper and prices of materials have also fallen since then?

(e) Is it also a fact that owing to the shifting of the river Lower Ganges (Padma), at a considerable distance from Pabna town and other important marts, the intense competition apprehended in the revised traffic report of the project prepared in 1925 no longer exist now?

(f) Is it a fact that since the year 1914-15, the river Ichhamati, Barnoi and also the Santhia Jola on the proposed alignment have been much filled up and become narrowed down, and that on account of the items mentioned in part (d) above, the cost of bridges and culverts also will be comparatively much lower now than that estimated in 1914-15?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) Government have no record of this.

(c) Yes. Government did not anticipate any difficulty in providing funds themselves, were the project to prove sufficiently remunerative to justify construction.

(d) Government cannot say without an investigation being made.

(e) No. Competitive activity still exists.

(f) Government do not consider that the project appears to be sufficiently remunerative to justify the further investigation which would be required before this question could be answered.

ATTENDANCE IN OFFICE ON SUNDAYS AND HOLIDAYS BY THE STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE.

†1128. ***Maulvi Syed Murtuza Sahib Bahadur:** (a) Will the Honourable Member for Railways please state if it is a fact that in order to have

† Answer to this question laid on the table, the questioner being absent.

ned on due dates, the staff of the Railway Clearing Accounts the work is being compelled to sit late hours and to attend office on Office, Del^h including Sundays?
all holiday

(b) Are Government aware of the fact that there is great resentment among staff who are being made to attend office on communal holidays?

Are Government prepared to hold an enquiry into the above and take suitable action against those responsible?

The Honourable Sir Thomas Stewart: (a) The answer is in the negative except that, during the recent Muharram and Holi holidays which fell during a period when certain changes in accounts procedure were being introduced, a part of the staff was asked to attend. But no one was asked to attend on a holiday relating to his community; and everyone who attended has been or will be compensated for by extra casual leave.

(b) No.

(c) The Government see no need for an enquiry.

ATTENDANCE IN OFFICE ON SUNDAYS AND HOLIDAYS BY THE STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE.

+1129. ***Maulvi Syed Murtuza Sahib Bahadur:** (a) Will the Honourable Member for Railways please state the number of the staff of the Railway Clearing Accounts Office, Delhi, who attended office on the 11th, 12th and 15th March, 1938, which were closed holidays?

(b) Is it a fact that the supervising staff have given an undertaking that the work in the office under the new method shall be finished on due dates with the present staff?

(c) Have Government considered whether the present staff is sufficient to cope with the increased volume of work under the new scheme (Grand Summary Method)?

(d) If the replies to parts (a), (b) and (c) be in the affirmative, do Government propose to increase the staff of that office?

The Honourable Sir Thomas Stewart: (a) The numbers are as follows:

Those who attended on the 11th instant 578.

Those who attended on the 12th instant 548.

Those who attended on the 15th instant 107.

(b) No.

(c) No: the staff was only re-fixed recently by the Controller of Railway Accounts under his own powers after taking into account the changes in procedure necessitated by the new scheme. These changes, I am advised, do not add to the work taken as a whole.

(d) For reasons unconnected with the new scheme, *viz.*, the growth of traffic and increased number of invoices and other documents handled, the Director has recently asked for extra staff and the Controller of Railway Accounts who is examining the proposals will pass orders on them shortly.

+ Answer to this question laid on the table, the questioner being absent.

ATTENDANCE IN OFFICE ON SUNDAYS AND HOLIDAYS BY THE STAFF OF THE
RAILWAY CLEARING ACCOUNTS OFFICE.

1180. *Mr. Govind V. Deshmukh: Will the Honourable Member for Railways please state:

- (a) if it is a fact that Mr. K. R. S. Rau, a former Director of Railway Clearing Accounts Office, issued orders in 1931 that a register be maintained in all the sections of the office for recording attendance of the staff on holidays and after office hours;
- (b) if it is a fact that he had also issued orders that the staff attending office on Sundays and other holidays be given compensatory leave during the next week in which the Sunday or holiday was attended;
- (c) if the reply to parts (a) and (b) above be in the affirmative, why the practice has been discontinued, and whether Government propose to introduce the same; and
- (d) if it is also a fact that since the introduction of the Grand Summary Method in the above office (Railway Clearing Accounts Office) the staff is being compelled to attend office on Sunday and other holidays without the Director's orders and without being compensated for?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) No.

(c) The register referred to was discontinued as it involved work incommensurate with its utility; and Government see no reason to re-introduce it.

(d) No.

DETENTION OF ONE ABDUL RAHMAN JAN IN SAUGOR.

1181. *Seth Govind Das: Will the Foreign Secretary please state:

- (a) whether one Abdul Rahman Jan is under Government custody in Saugor; Central Provinces;
- (b) since when he has been either in jail or in Government custody;
- (c) his offence and under what law he is under detention;
- (d) whether Government propose to consider his case for releasing him;
- (e) if not, the reasons of Government for not doing so; and
- (f) whether he is an Afghan subject and whether Government consider the allowance given to him adequate?

Sir Aubrey Metcalfe: (a) Yes.

(b) Since 1933.

(c) He is detained under Regulation III of 1818 to prevent him from intriguing against the Afghan Government while in India.

(d) Government hope to arrange his release shortly.

(e) Does not arise.

(f) Yes.

Seth Govind Das: Who is bearing the expenditure in connection with his detention?

Sir Aubrey Metcalfe: The expenses of his detention are being borne by the Government which has placed him under restriction, that is, the Government of India.

RECRUITMENT OF ASSAMESE IN PLACE OF GURKHAS TO THE ASSAM RIFLES.

1182. ***Mr. Amarendra Nath Chattopadhyaya** (on behalf of Mr. Kuladhar Chaliha): Will the Foreign Secretary please state:

- (a) whether Government have ceased recruiting Gurkhas from Kuraghat Recruiting Camp in Darjeeling to the Assam Rifles;
- (b) owing to recent rumours of attack on the Eastern Frontier by foreign powers, whether Government propose to raise new battalions of the Assam Rifles entirely of Assamese;
- (c) whether Government have considered the idea of eliminating Gurkhas entirely from the Assam Rifles; and
- (d) whether Government have considered any proposal of having a recruiting centre in Upper Assam for recruitment to the Assam Rifles from the following castes:—Chowdangs, Kacharis, Thangals, Chutias, Deoris, Miris, Mikirs, Aotonias, Keots, Kalitas and Ahomas?

Sir Aubrey Metcalfe: (a)—(c). No.

(d) Recruiting parties are sent out in Assam with a view to enlisting suitable persons for the Assam Rifles irrespective of castes.

FREIGHT RATE ON POTATOES ON THE EASTERN BENGAL RAILWAY.

1183. ***Mr. Amarendra Nath Chattopadhyaya** (on behalf of Mr. Kuladhar Chaliha): Will the Honourable Member for Railways please state:

- (a) the freight charged per maund of potatoes from Shillong to Gauhati, a distance of 64 miles, and the freight charged from Gauhati to Calcutta by the Eastern Bengal State Railway; and
- (b) whether Government are prepared to ask the carrying company and the railways concerned to charge the same rate for potatoes as they charge for fruit and vegetables?

The Honourable Sir Thomas Stewart: (a) Shillong to Gauhati Re. -/6/- Gauhati to Calcutta Re. -/8/8.

(b) Government do not understand why the Honourable Member suggests an enhancement in the rates for potatoes, which are at present lower than those for fruit and vegetables. They will, however, convey the suggestion to the Railways concerned for consideration.

ELECTION OF MEMBERS TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that the following non-official Members have been elected to serve on the Central Advisory Council for Railways, namely:

1. Mr. Kuladhar Chaliha;
2. Dr. Sir Ziauddin Ahmad;
3. Mr. B. B. Varma;
4. Mr. Lalchand Navai Rai;
5. Babu Baijnath Bajoria; and
6. Lieut.-Colonel Sir Henry Gidney.

ELECTION OF A MEMBER TO THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that up to 12 noon on Wednesday, the 30th March, 1938, the time appointed for receiving nominations for the Governing Body of the Indian Research Fund Association only one nomination was received. As there is only one vacancy, I declare Dr. G. V. Deshmukh to be duly elected.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 167.)

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume further consideration of the following motion moved by Sardar Sant Singh, on the 16th February, 1938:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 167*) be circulated for the purpose of eliciting opinion thereon."

Mr. Lalchand Navai Rai (Sind, Non-Muhammadan Rural): I was in possession of the House on the last occasion, and I have to continue my speech. This Bill has been introduced by my friend, Sardar Sant Singh, in order to amend section 167 of the Criminal Procedure Code. Section 167 of the Criminal Procedure Code requires that, when an accused person is brought before a Court by the police for remand, the remand has to be given by a magistrate under certain conditions stated in section 167. It is better to understand first how the accused is brought before a magistrate. This is necessary for the non-lawyer element of the House in order to judge whether this Bill will remove the difficulty that is prevalent at present. Sir, under section 54 of the Criminal Procedure Code, the police has got power in cognisable cases, on receiving a complaint or even on reasonable suspicion, of a cognizable offence to arrest a person. The next stage is that the police can keep the accused person in their custody only for 24 hours and no more; but if for certain reasons it becomes necessary for the police to get a remand or to get further time, they are bound under section 167 of the Criminal Procedure Code to put him before a Court. Now that is being done, the accused is brought before a Court, but difficulties have arisen in practice, which this Bill wants to remove.

The first is with respect to the accused being brought before a magistrate in the open Court. At present the practice, as has been shown by the previous speakers, in Punjab especially, is that the accused person is taken before a magistrate either in his chambers or *in camera* or at his own house. It is also complained that the accused is being taken before a magistrate at a time when he would not ordinarily be in Court. The reason for that is quite plain and we know why it happens. Now, if the accused is taken before a magistrate in an open Court, then the magistrate or the police cannot do any wrong which some of them at present are addicted to. What the police do is this: they have no evidence against a man; yet they arrest him on pretext of a reasonable suspicion because that is the law at present—it requires to be amended and it may be amended hereafter—but at present, having arrested him, they feel in their mind that there is no evidence for the man to be sent before a magistrate for actual trial and therefore they go to a magistrate—and we know that some of these first class magistrates are called police magistrates: so the police officer goes to the police magistrate and you can understand whether there will be any difficulty at all in getting a remand; in practice remands are given as a matter of course; the section no doubt requires that he has to record his reasons, but does he do it? If he does it, what does he say? The police officer tells him that the investigation is not yet complete; time is required; and if you are not going to give time there will be failure of justice. The magistrate gives that remand and that remand can be given up to a period of 15 days. Then what happens? Time has been given to him to make further investigations, and generally what we find is that they fish out evidence or extort confession from the person who is in the lock-up and within those 15 days they get their object fulfilled. What this Bill wants is that ordinarily the accused person should be brought before the magistrate in his open Court. "Ordinary Court" would mean where he ordinarily holds his Court.

The other day Mr. Thorne objected to this Bill on behalf of the Government and I could not understand why Government should feel in any way hampered by this Bill. On the contrary, they should help in justice being done and in curbing the vagaries of the police which are well known. The Congress Governments are now doing something to see that the police upper hand is being loosened a bit; but a statutory Act is necessary for the purpose of curbing their whims and fancies. Therefore, I was sorry to see that the Government should oppose this Bill. Mr. Thorne himself admitted that justice would be done if the man is brought in open Court and he is heard through his counsel or heard himself. That is the second part of this Bill. The Bill requires that before giving that remand the accused or his counsel should be actually heard. On these two points Mr. Thorne said that there would be difficulty in taking the accused to a place other than the ordinary Court. By ordinary Court he meant its headquarters where it sits and has got a building which is called a Court. But I would tell the Government that "ordinary Court" would not mean a building built in the headquarters. It may mean any place where constitutionally and legally the magistrate sits to decide cases. Therefore, the objection taken by Government was that the accused shall have to be taken long distances because these magistrates ordinarily go on tour. That is quite true but does he not hold his Court there? He does. I say that the Government should, on the contrary, see that the accused persons should not be taken long distances outside headquarters, but there should be stationary magistrates everywhere—I now find that some Governments have issued circulars to

[Mr. Lalchand Navalrai.]

this effect. In consonance with that, therefore, the ordinary Court would mean open Court and not a Court *in camera* which is not good. I hope Honourable Members feel that to do justice the accused person should be brought in open Court to remove all doubts from the minds of the accused person

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): May I ask one question? Supposing a magistrate goes to the mufassil for inspecting a case or do something and holds a Court to try some bad livelihood cases under section 110 and he remains there for days and days; what happens if the accused is brought under arrest to the headquarters and produced before the S. D. O. or magistrate in charge of the district and if he is enlarged on bail, what does it affect? What is his answer?

Mr. Lalchand Navalrai: I think it requires no answer. My Honourable friend has interrupted me but he does not himself know the facts—I do not know if he has at all been going to the Courts now; but anyhow if he had been going to the Courts he would see that it is not only one magistrate who is in headquarters—there are several magistrates

Mr. K. Ahmed: I did not say that there was only one magistrate at headquarters. There may be the S. D. O.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable is not giving way.

Mr. Lalchand Navalrai: That is quite true. Anyway what I would like to impress upon the House is this: that there are several Courts in the headquarters. I have seen Courts held under a tree in front of the quarters: under the tree all the people sit: the Court is there, the magistrate is there and everybody concerned is there. I need not say anything more on that point.

Then coming to the second objection (Interruption.) This is not the Sarda Bill.

Mr. K. Ahmed: I see. This is monopolised by the pleaders at Larkhana!

Mr. Lalchand Navalrai: Here is a pleader of Larkhana helping you in having justice done. Coming to the second point of the Bill, namely, that the accused and his counsel should be heard, I say that is a very salutary provision. Why should he not be heard? Mr. Thorne himself said the other day that he used to allow pleaders and the accused to have their say, but in the end he said very little light could be thrown by the accused or his counsel at that stage. I want to tell the Government that it is really necessary that counsel should be heard and I will give you an illustration within my own experience. Sometime back—only about six months ago—there was a case in which an inspector of police arrested a man, and said that that man was a habitual robber. He arrested him because section 54 allows a habitual robber to be arrested without warrant. But there was no evidence; and the inspector was at bay what to do: he brought him to a police station and there he said "Here is a man, I have a suspicion against him that he is a habitual robber but I have no evidence". Then he ordered the sub-inspector to try and find out from the records if there was any undetected robbery case at any time. That sub-inspector found out one

which had happened two years previously where no accused had been found and there had been no case against any one. So, they made out a case against this man and fabricated one: the inspector sent for the complainant and that old case of two years back and also one or two other witnesses and made them identify this man. He then came before the magistrate and asked for a remand. He said 'This man is a habitual offender'. There was no pleader and he was not even asked. The magistrate gave remand as a matter of course for 15 days and within those 15 days evidence was fabricated in the sense of calling two men and putting this man amongst other people and having him identified. If only the magistrate had heard a pleader he would not have given the remand. When the case came regularly before the magistrate, the accused was represented by a pleader. The pleader said "There was no case against this man. At the beginning he gave time and in the interval this evidence was fabricated" and it was proved to the hilt that the evidence was fabricated. Although the man was acquitted, still he was in jail for two months or more. These are the cases that are happening. All that we ask is that the pleader or the counsel for the accused should be heard before the remand is given. I have every hope that this amendment will be accepted by the Government. At present this motion is only for circulation and I hope that Government will agree to the circulation motion.

The Honourable Sir Nripendra Sircar (Law Member): Will you please allow me to make a statement which may shorten proceedings? Both from the speeches of myself and Mr. Thorne, it will be clear that we are opposing the principle of the Bill and we shall, as at present advised, oppose the Bill at the later stages, but we do not want to fight to the last ditch over a circulation motion. I really have no objection, after this statement of mine has been recorded, as it will be, to allow the Bill to go to circulation.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 167*) be circulated for the purpose of eliciting opinion thereon."

The motion was adopted.

THE DURGAH KHAWAJA SAHEB (AMENDMENT) BILL.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I move:

"That the amendments made by the Council of State in the Bill to amend the Durgah Khawaja Sahab Act, 1936, be taken into consideration."

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendments made by the Council of State in the Bill to amend the Durgah Khawaja Sahab Act, 1936, be taken into consideration."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendments† to clause 3 as made by the Council of State be agreed to."

The motion was adopted.

† For these amendments see p. 999 of these Debates.

THE CUTCHI MEMONS BILL.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): Sir, I beg to move:

"That the Bill to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law, as passed by the Council of State, be taken into consideration."

Sir, this measure has a long and chequered history behind it. As far as this Legislature is concerned, this history, to the best of my knowledge, begins in the year 1896, when a Bill to provide for the application of Muhammadan law to the Cutchi Memons was introduced in the Council of the Governor General of India by the Honourable Sir John Woodburn. In introducing that measure in the Council on the 20th March, 1896, Sir John Woodburn said:

"Repeated representations have been made to the Government of India by the members of that community (*meaning the Cutchi Memon community*) asking that provision should be made by which they should be enabled to declare themselves Muhammadans and to be subject to Muhammadan law."

This shows how long standing and persistent has been the agitation made by the community for the application of the Muhammadan law of *Shariat* to them. That measure could not, however proceed beyond the Select Committee stage.

Then in 1920, the late Honourable Khan Bahadur Haroon Jaffar, as he then was, introduced in the Imperial Council a Bill almost identical with the Bill that is now before us. But his attempt to bring the Cutchi Memons under the purview of the Muhammadan law succeeded only partially. On the last day of the existence of the old Imperial Council (10th September, 1920) the Council passed his measure in a modified form. That measure permitted such members of the Cutchi Memon community as made a declaration to that effect to adopt the Muhammadan law for themselves and their successors. The mover of that measure was not satisfied with this compromise and he made it quite clear that he accepted it only as a temporary measure. He said:

"The position created by the Bill is not wholly satisfactory and I do not regard it as the last word in legislation on the question. I am in hopes that the prevailing complete unanimity among Cutchi Memons and a better understanding of their desire will render possible in the near future the completion of the work, the beginnings of which are represented by the Bill now to be passed."

This Bill, Sir, is an attempt to bring that beginning to a logical and successful end. The position with regard to the law of inheritance and succession which should apply to Cutchi Memons has been anomalous since the establishment of British Courts in this country. It has always been admitted on all hands that the Cutchi Memons are good Muslims and pious Muslims. I hope we continue to deserve these appellations but it was held by the High Courts that it is the Hindu law of inheritance and succession that should apply to them with its pernicious provision of depriving women from any right to property. (*An Honourable Member*: "I object to the word 'pernicious'.") All right. Then I withdraw that word. According to this arrangement a live Mussalman becomes a dead Hindu. That is, a Cutchi Memon is a good and pious Mussalman as long as he is alive but as soon as he dies his property descends according to Hindu law. When the Bill of 1920 was circulated for public opinion, Mr. Justice Coutts Trotter of the Madras High Court expressed his opinion that the Cutchi Memons

should be freed from the fetters of the Hindu law, while Justice Sadasiva Aiyar said that he was very glad that the Cutchi Memons were anxious to see that the law which they followed was not separated from their noble religion.

Sir, the Cutchi Memon community has been agitating for a change in this anomalous position for one full century. It is not unknown to Honourable Members that things used to move too slowly in this country. The first tangible result of this agitation was the Bill which was introduced in the Imperial Council in 1896. But, due to the fictitious opposition set up by an infinitely small but powerful minority, the Government of the day took fright and the Bill was dropped in the Select Committee. Then after a long interval of twenty-four years the Bill of 1920 was brought forward by the late Honourable Sir Haroon Jaffar. It was due merely to his tact and perseverance that this measure did not meet the same fate as the first attempt. The Government was still frightened and they could support the measure only in a restricted form. Now, after a lapse of eighteen years, has arisen a gentleman of equal if not greater tact and perseverance who has taken up this question and brought it to this stage when the final goal appears in sight.

Sir, I cannot refrain from paying a tribute to my friend, the Honourable Seth Abdul Razzak Haji Abdul Sattar, who was in charge of this measure in the other House. His untiring zeal, perseverance and tact, of which some of my friends on the official Benches both in this House and the other House had some experience, and his sweet reasonableness and patience, of which some of us on these Benches have had ample experience, coupled with this courage and robust optimism, have alone helped this measure to reach this stage. It was indeed fortunate for the community that it had this gentleman to sponsor this Bill. He has placed the community under everlasting gratitude.

Sir, this measure received almost universal support from the community, as the opinions which were circulated among the Honourable Members and newspaper reports of meetings held all over the country will amply prove. Sir, the great Cutchi Memon *Jamaatts* of Bombay, Karachi and Calcutta as also the *Jamaatts* of other places have expressed their whole-hearted support. Honourable Members may be interested to know that the Cutchi Memon *Jamaatts* are fully autonomous bodies as regards the communal affairs of Cutchi Memons. Every adult Cutchi Memon is a member of the body in his own right and has the right to vote. It is such *Jamaatts* all over the country that have supported the measure whole-heartedly.

Briefly stated, this measure seeks to remove all anomalies that exist with regard to the law of inheritance applying to the community. First, there was the anomaly of good and pious Mussalmans becoming Hindus as soon as they are dead. The Act of 1920 introduced another anomaly. Though a great majority of the community took advantage of the facility granted by it to declare their desire to have the Muhammadan law apply to them and to their successors, a small minority due mostly to indifference and indolence have not made the prescribed declaration. This leads sometimes to curious situations. A person who has made the declaration comes under the Muhammadan law while his brother, father or son who has not made the declaration is to be governed by Hindu law. Honourable Members can imagine what confusion and irregularity this state of things must be causing. Indeed the community has got tired and disgusted with such a state of

[Mr. H. A. Sathar H. Essak Sait.]

affairs. The measure before us seeks to put an end to this confusion. It lays down that from the 1st day of November, 1938, all Cutchi Memons shall in matters of succession and inheritance be governed by the Muhammadan law.

Clause three seeks to protect existing or vested interests and makes it clear beyond any doubt that this measure shall not have retrospective effect. Clause 4 is only a consequential provision.

Sir, from the story that I have unfolded I am sure that I have the sympathy of the entire House in this matter. Sir, we claim that this piece of legislation is a social reform measure, for it seeks to restore to our mothers, sisters and widows what Islam gave to them fourteen hundred years ago, but what our men, because of their selfishness, withheld from them for such long years—the privilege to own and inherit property in their own right. Because of this, I recommend this Bill for the whole-hearted support of every Honourable Member of this House.

Sir, a word more and I have done. I could not forget the great help that was given to us by the Government in getting this measure passed expeditiously in the other House. Their benevolent neutrality alone helped this measure to reach this stage. I wish they were more courageous, but what little they have done is much in our eyes because it has helped us much. I shall be excused if I mention the Home Department and its Secretaries and the Honourable Mr. A. deC. Williams particularly as deserving of the gratitude of the community.

Finally, Sir, I request the House to pass this measure unanimously* and thus help us, in the words of the late Justice Sadashiva Iyer, to follow a law which is not separated from our noble religion and to die as good and pious Muslims as we hope we live.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

"That the Bill to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law, as passed by the Council of State, be taken into consideration."

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I rise with the greatest pleasure to say that I have had the privilege of going through the Bill which was introduced in the first instance by Honourable Mr. Abdul Razzak Haji Abdul Sattar in the Council of State. The objects and reasons of the Bill had been all set out clearly and the Cutchi Memon community with great rejoicing accepted the Bill. Opinions had been invited from all over the country, and learned Judges of the different Courts have given their views. My Honourable friend, Mr. H. A. Sathar H. Essak Sait, quoted a certain wording from the ruling of a High Court Judge in Madras stating that the Cutchi Memon community were finding some difficulty in inheriting property according to Muhammadan law, that they would like very much to inherit property according to Muhammadan law, that when they die, they would like to die like a Muhammadan and inherit property like a Muhammadan, and they should be helped in this. They should have the satisfaction of living like a full Muhammadan today just as Muhammadans lived in the days of those Arabs when the Prophet was born in that Arab country. Sir, the Maulvis and Maulanas here were not born then but they are preaching certain doctrines all over the country. I am of

course not a religious preceptor. They are getting tons and tons of money in the course of their preachings. Of course I am not a great Maulana of that description, but certainly as a strict Muhammadan it is better that I should embrace this "minority", as they say of themselves in the Statement of Objects and Reasons, the Cutchi Memons, who have so far been left behind, and who are now going to embrace. The true Muhammadan religion in this respect, because henceforth they will die as Muhammadans, as followers of the faith in the Holy Koran, and their successors will enjoy their property as Muhammadans. Sir, at present Hindu law governs people in that part of the locality. Sir, as a student and as a boy of twenty or twenty-one when I passed my examination I had the honour to read of this community,—that they had a law in that part of Cutch somewhere in Bombay, whereby the poor people were deprived of the benefits of Muhammadan law but that they were governed by the Hindu law, customs and usages! Sir, I stretch my hands to embrace these Muhammadans and wish to co-operate with them. Henceforth we hope all Muhammadans will have the satisfaction of feeling that they being born as Muhammadans shall die as Muhammadans and inherit property as Muhammadans, as was said by Mr. Justice Sadasiva Aiyar. Now the author of the Bill in the Statement of Objects and Reasons stated as follows:

"Sufficient time has passed since passing of the Cutchi Memons Act of 1920 and large numbers of people of the Cutchi Memon community have taken advantage of the same. However, there is a minority which still persist in being governed by the customary laws and that tends to complicate matters."

Mr. President (The Honourable Sir Abdur Rahim): (to Dr. Sir Ziauddin Ahmad): Honourable Members are not allowed to read newspapers in the House.

Mr. K. Ahmed: Probably my friend is now engaged in research work, but I support this Bill,—I am sure my friend from Aligarh will never be allowed to read his newspaper, a great scholar as he is. To continue the quotation from the Statement of Objects and Reasons:

"However, there is a minority which still persist in being governed by the customary laws and that tends to complicate matters. In order to bring about uniformity it is highly desirable that the entire Cutchi Memon community be governed by the Muhammadan Law."

Sir, the Muhammadan Law is the Koranic law and today with the rejoicings of my heart I welcome Mr. Abdul Razzak Haji Abdul Sattar that he has brought this Bill. I, therefore, have no hesitation in supporting the consideration of the Bill for acceptance of the House.

Mr. President (The Honourable Sir Abdur Rahim): The question is.

"That the Bill to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law, as passed by the Council of State, be taken into consideration."

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. H. A. Sathar H. Essak Salt: Sir, I move:

"That the Bill, as passed by the Council of State, be passed."

In making this motion I wish to express my heartfelt gratitude and the gratitude of the community to all the Honourable Members of this Honourable House for the help they have given us to achieve our object, namely, to live and die as Mussalmans.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill, as passed by the Council of State, be passed."

The motion was adopted.

THE CONTROL OF COASTAL TRAFFIC OF INDIA BILL.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Mr. President, Sir, I move:

"That the Bill to control the Coastal Traffic of India, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinion thereon by the 1st July, 1938."

Sir, on the 22nd of March, I presented to this Honourable House the report of the Select Committee on this Bill, which was introduced on the 17th April, 1936, and referred to a Select Committee on the 22nd September last. The Select Committee met on the 26th February this year and have completely redrafted the Bill which, according to their report, provides a more practicable scheme for the development of an Indian Mercantile Marine and have recommended its republication. This Bill is of great national importance and, as redrafted by the Select Committee is admitted on all hands to be a great improvement upon the Bill as originally introduced.

Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

"That the Bill to control the Coastal Traffic of India, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinion thereon by the 1st July, 1938."

Mr. H. Dow (Commerce Secretary): Sir, I do not rise to oppose the motion for circulation, but to make perfectly clear the attitude of Government with regard to this Bill. Government were wholly opposed to the Bill in its original form, and they are still as opposed to it in the form in which it now appears from the Select Committee. Indeed, if Honourable Members will refer to the Minutes of Dissent, they will find that the majority, something like 17 out of 19 Members, of the Select Committee, seem to dislike it even more strongly themselves.

The Honourable the Leader of the Opposition and two other front Bench Members of the Congress Party have, to some extent, excused themselves for the unsatisfactory nature in which the Bill now appears by saying that they think that Government should come forward and take the initiative. I am inclined to agree with them so far as this—it is certainly an unsuitable subject for a private Member to bring a Bill upon. I might go further with them, if the report of the Select Committee had broken down,—and I maintain it has broken down—on points

of detail; but it will be seen from the large number of Minutes of Dissent that the Select Committee are equally at sea on points of principle. I submit that the proper conclusion to be drawn from this is that the grievance which is felt by many Members of this House is one for which legislation is not at all the proper remedy.

I feel rather tempted to illustrate what has happened to this Bill by telling the House a story.

A budding poet once brought his poem for opinion to a great critic and said: "Sir, you will observe that in the whole of this poem I have not once used the letter 'b'." The critic read the poem, and then said: "Would you improve it still further?" "Certainly", replied the poet, "perfection is my object". "Then", said the critic, "leave out all the other letters".

Now this Bill, as originally introduced, had one merit, it steered clear of a licensing system. The Select Committee have accepted a great deal of the advice tendered by Government, and they have left out practically all the original Bill, but they have brought back the B.

This Bee, if I may now change the spelling, has buzzed for a long time in the bonnet of a well-known Indian shipping magnate, and I am very sorry to see that it has now found a home in that of Sir Abdul Halim Ghuznavi.

Again referring to the Minute of Dissent by the Honourable the Leader of the Congress Party and his colleagues, I am pleased to see that they have been astute enough at least to see that the Bill, as it is now brought before the House, can be used for crushing the smaller Indian companies. They say:

"In fact, there is substantial danger, under the punitive clause, of the right of complaint being so abused as to send the less resourceful rivals to the wall."

Now, Sir, one has only to look at what is going on on the West Coast of India today to see that the time has arrived when one large Indian shipping company thinks it just as important to crush the smaller Indian companies as it does to compete with its larger British rivals. It is quite clear that this Bill is going to help in this work. I should be very sorry to see my Honourable friend, Sir Abdul Halim Ghuznavi, who, in his time, has been associated with a number of small Indian companies, in the innocence of his heart, made responsible for a Bill which will very likely put them completely out of action.

However, as I already said, I support the motion for circulation. Publicity, Sir, is the best way to kill a Bill of this kind, and I have little doubt that before the House meets again, Sir Abdul Halim Ghuznavi's child will be found to be dead from exposure.

Sardar Sant Singh (West Punjab: Sikh): Sir, the Honourable Member for Government has expressed his surprise that the Bill of the importance of regulating coastal traffic should come from a private individual.

Mr. H. Dow: I expressed no surprise.

Sardar Sant Singh: At any rate he gave me that impression. But he forgets that the efforts to regulate the coastal traffic in India have been going on now for over 12 years. If my memory serves me right, the first Bill to control such traffic was introduced in this House sometime in 1926. Since then, Members on this side of the House have been continuously drawing attention of Government to their duty in this matter. But instead of fulfilling that duty towards the country in which they live and whose salt they eat, we discovered that this Government practically consented to the inclusion of those pernicious provisions which are embodied in sections 113 to 116 of the Government of India Act whereby the power has been taken away from this Legislature to protect and defend the legitimate interests of India when such interests come in conflict with those of Britain. The position at present is that these provisions in the Government of India Act debar us from making any legislative enactment on the basis of reason and logic or in the interest of India as such. These provisions are acting, at present, as a Damocles sword hanging over our head lest we infringe these provisions whether unknowingly or deliberately. I really cannot understand why such a provision should find a place in the statutes of the country where India's interests are solely concerned. However, this is a matter for some other place and for other persons. But this fact we cannot ignore that these provisions have added to the difficulties of this Legislature in solving simple problems.

The businessmen, the industrialists and others who are engaged in trade know this. The interests of India demand that something should be done to protect Indian interests and Indian commerce. That difficulty has been created and yet we find that Government do not want to take a bold step to get over that difficulty or to bring forward their own measures in order to fulfill the object which is before us. When we say that this Bill, however inadequate its provisions may be, is necessary for the interests of India, we have to take as much as possible that can be eked out of this Government as well as out of the provisions embodied in the Government of India Act. Though we are not entirely satisfied with the provisions of this Bill,—and that is why we have appended so many minutes of dissent, because it does not go far enough to fulfill the object for which it is designed—yet we say that something is better than nothing. On that principle we have agreed to this Bill being placed on the Statute-book. But as the Bill has been changed out of shape entirely as has just now been said by the Honourable Member of the Government, it is necessary that we should get public opinion. But in inviting public opinion on this measure, I can tell the Government that this child of Sir Abdul Halim Ghuznavi is less likely to die of exposure but the probability is that a negligent and hesitating administration will be subjected to a good deal of hostile criticism.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Why don't you bring forward yourself such a measure?

Sardar Sant Singh: The same objection will be raised against any Bill which is sponsored by me as I usually happen to get for my Bills from my Honourable friend, Mr. K. Ahmed, in that sphere where I think he has some knowledge. But in this he has no knowledge. I need not speak at any further length. I support this motion for re-circulation.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I rise to a point of order. I submit that we had formerly two Bills for re-circulation in this House. Mr. Haji's Coastal Traffic Bill—the predecessor to this Bill—came up before this House for re-circulation and at that time only the Mover of the Bill moved the motion and the same was accepted by the House without any further speeches. No debate took place on that motion. Today I find that already two speakers have spoken and yet more Honourable Members are rising to speak on this motion. There was also another Bill by Sir Hari Singh Gour and on that Bill also a motion for re-circulation was moved in this House and there were no speeches then.

Mr. President (The Honourable Sir Abdur Rahim): What is the point of order—that the Chair ought not allow speeches? There is no point of order in that.

Mr. B. Das: The two precedents that I have just quoted show that only the Mover of the Bill made the motion for re-circulation of the Bill and there were no further speeches.

Mr. President (The Honourable Sir Abdur Rahim): Because there were no speeches on those occasions, is it the Honourable Member's contention that that forms a precedent. I cannot accept such a contention. Babu Baijnath Bajoria.

Babu Baijnath Bajoria (Merwari Association: Indian Commerce): Sir, as one of the signatories to the Minute of Dissent, I should like to clear one misunderstanding which might have been created by the statement which the Honourable Mr. Dow made just now. He said that 17 out of 19 members of the Select Committee did not like this Bill, or that they disliked this Bill. I, along with six others in the Select Committee, said in our Minute of Dissent that we liked this Bill. The Select Committee had decided to extend the operation of this Bill to Ceylon and Burma. After the Select Committee had concluded its deliberations, we found that by making this addition we were going outside the scope of this Legislature and that there might be difficulty in getting this Bill passed by this House. We just made it clear in our Minute of Dissent that we would be willing to drop out the addition of the words which made the Bill applicable to Ceylon and Burma.

Mr. President (The Honourable Sir Abdur Rahim): All that is there. It is now for re-circulation.

Babu Baijnath Bajoria: I only wanted to contradict the statement of the Honourable Member that 17 out of 19 Members of the Select Committee did not like the Bill. It is only the Government Members and the Members from the European Group that did not like the Bill. They alone did not like the Bill. Even the Members from the Congress Party did like this limited Bill but they wanted a more comprehensive measure. Acting on the principle that half a loaf is better than no loaf, we all wanted this Bill to be discussed in the House now and to have the measure placed on the Statute-book. But the Select Committee decided by a bare majority of one that we should re-circulate the Bill.

Mr. President (The Honourable Sir Abdur Rahim): That was a majority. It is quite enough.

Babu Baijnath Bajoria: I wanted to remove that misunderstanding and I think I have made myself perfectly clear. I am supporting the motion for circulation but I wanted in the meantime to contradict something which fell from Mr. Dow, and I am very sorry that Government's opposition has not been broken. They still have the same apathy for the coastal shipping trade for Indians as they had during the last 8 or 10 years during which this question has been engaging the attention of this House. He presumes that this Bill will be killed by circulation. Probably that will delay the matter; that is all. But if he is under the impression that by circulation the volume of opinion which will be received from the country will be against this Bill, he is totally mistaken. Again, Sir, I agree with him that it would have been much better if the Government of India had come forward themselves with a comprehensive Bill, reserving the coastal shipping trade of India for Indians. But Government are doing nothing of the sort. We are very grateful to Sir Abdul Halim Ghuznavi for bringing forward this measure. There is no discrimination whatsoever against Europeans in this Bill and it is clear of sections 113 and 115 of the Government of India Act; and I think Government should not have been opposed to such a beneficent measure. They should have given their support to this measure rather than take up the attitude which they have taken up. Sir, I heartily support the motion for re-circulation.

Mr. F. E. James (Madras: European): Sir, as some discussion has been enjoyed on this Bill, it becomes necessary that I should state our position. We were opposed to the original Bill which was introduced in this House for reasons that were stated by our then Leader Sir Leslie Hudson. It is true that the Bill has been substantially altered in the course of the deliberations of the Select Committee. But it has not been altered in such a way as to remove any of our objections which were then stated. In fact the Bill as it has now emerged contains more objectionable features in our view than it did when it was first of all referred to the Select Committee. Therefore, if we do not oppose the motion for re-circulation I hope the House will clearly understand that our objections still remain to the Bill and we shall continue on the proper occasion to fight every stage of this Bill when it comes up for further consideration.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I should like to draw the attention of the Honourable Member to something that has been said in the Minute of Dissent by the Congress Party.

"It is a matter of great national importance and the Government should take the initiative in bringing forward a measure which should encourage and protect Indian enterprise."

Mr. H. Dow: I referred to that in my speech: I think I quoted that myself.

Dr. G. V. Deshmukh: Your case was that the Congress Party saw what was the objection in it and you laid all the importance on this that the poorer companies will be at a disadvantage. My point is to lay stress on this that if it is not right for a private Member to bring in a Bill of this nature, it is the duty of Government to bring in Bills dealing with larger subjects like this, and when Government bring in measures like this, I hope there will not be a big "D" in that Bill.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill to control the Coastal Traffic of India, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinion thereon by the 1st July, 1938."

The motion was adopted.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume further consideration of the Bill to amend the Child Marriage Restraint Act.

The Honourable Sir Nripendra Sircar (Law Member): Sir, my Honourable friend Mr. Bajoria has moved his amendment No. 10 which runs thus:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 12 the following be added at the end:

'Provided however that such injunction shall be issued at least seven days prior to the date of marriage.'"

In opposing this amendment I desire to point out that the Bill, as it has emerged from the Select Committee, provides in section 12 (2):

"No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction."

Further, the opportunity must mean reasonable opportunity. Therefore, the person who has been served with a notice gets reasonable opportunity for showing cause and there is no reason why the hard and fast rule of seven days should be fixed. Then, another point to be remembered is that the section is not mandatory but discretionary, and the general law applicable to injunctions is that the Courts will be very chary of allowing an injunction or issuing an injunction if there has been delay. That is the general principle relating to injunctions and we cannot surely go on repeating those general principles in the Bill. We have got it first of all that reasonable opportunity has got to be given; secondly, that the order is a discretionary order; and no reasonable Court,—and I am dealing with reasonable Courts and not with particularly unreasonable Courts which some of the speakers have in mind,—will allow an injunction if application is made immediately before marriage.

Then, Sir, my Honourable friend, Sir Abdul Halim Ghuznavi, pointed out that notice may be suppressed. I really do not know what is meant by that. What is the argument? If notices may be suppressed those notices will be equally suppressed if made returnable seven days before the marriage or fifteen days before the marriage or two months before the marriage. So there is no point in that except that it was a nice thing to say.

Then, Sir, another argument was advanced by my Honourable friend, Mr. Bajoria, based on what is, undoubtedly, a fact that certain initial ceremonies take place in Hindu marriages before the actual date of the marriage. Let us analyse what it means. As regards these initial ceremonies there is no limitation of seven days. It is my experience that as a matter of fact many of these initial ceremonies take place ten days or a fortnight or twenty days before the marriage. Therefore, the objection will equally remain that the hard and fast rule of seven days as indicated.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce): The time can be curtailed to seven days.

The Honourable Sir Nripendra Sircar: But why should the man who is trying to evade this curtail it?

Babu Baijnath Bajoria: It is not a question of evasion.

The Honourable Sir Nripendra Sircar: Then, Sir, it was said by my Honourable friend that among Hindus there are only ten or twelve days in the year on which marriages can be performed. I have no authority to speak for the Marwari community, but my friend knows Bengali very well and if he will look up the Bengali almanac for the current year he will find that there are 45 days for marriage in the year and some of the days are quite close to one another.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural): And these Pandits can go on adding sometimes as they did in 1930.

The Honourable Sir Nripendra Sircar: And supposing we served him with a notice that the marriage fixed for the 15th January is stopped, he can easily shift the date and have the marriage say on the 8th or 10th. Is there anything to prevent the shifting of the date provided another auspicious date could be found close by.

A good deal was said by my Honourable friend, Sir Abdul Halim Ghuznavi, on blackmail. We heard that word so often and for a time they talked about nothing but blackmail. Sir, if that is the argument, then every section of the Indian Penal Code has got to be dropped because there is no section of it which cannot be misused for the purpose of blackmail. Is that an argument at all? When my friend told this House about blackmail, I think he ought to have completed the picture by saying that as a matter of fact, in connection with the Sarda Act of 1929, some rich Marwaris in Calcutta—my friend knows them—actually subsidised some Muslims for opposing the Bill in the name of Islam. My friend is well aware of it.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh : Muhammadan Rural): I am not aware of it.

Mr. President (The Honourable Sir Abdur Rahim): Did the Honourable Member mean any Members of the House?

The Honourable Sir Nripendra Sircar: I certainly did not mean any Member of the House. My words are not open to that construction at all.

Mr. President (The Honourable Sir Abdur Rahim): As a matter of fact I thought, as the Honourable Member put it, that it might have that implication.

The Honourable Sir Nripendra Sircar: No, Sir, there is no justification for that misunderstanding, but if it is open to that implication that is unreservedly withdrawn.

Then it was stated that the prosecution was confined to a few rich men or rather families of rich men. Well, that may be my Honourable friend's experience because all his friends are rich and he knows all about them.

but that is not a fact. It is not a fact that the prosecutions which were started were as few as he thinks, nor were they confined to the rich.

Then, as regards this amendment I do not think I have anything further to add, and I submit that this House ought to be satisfied with the care which the Select Committee has taken in providing for reasonable opportunities being given to the person against whom notice is issued, and also with the fact that on general principles Courts will not issue injunctions when there has been unnecessary delay. Sir, I oppose the amendment.

Sir Abdul Halim Ghuznavi: I support the amendment. We have heard from the Honourable the Leader of the House that the Muslim opposition was against the Sarda Act and that it was subsidized by the Murwari community.

The Honourable Sir Nripendra Sircar: Sir, I said nothing of the kind.

Mr. President (The Honourable Sir Abdur Rahim): He did not mean that. He has made it clear that he did not mean any Members of the House.

The Honourable Sir Nripendra Sircar: I did not say that the Muslim opposition was based on money. I know that many of them are strongly and sincerely opposed to this measure for reasons which have been given in the House by Maulana Shaukat Ali and others. What I said was that some persons had been subsidized for carrying on an agitation, and that is the fact.

Sir Abdul Halim Ghuznavi: When the Sarda Bill was introduced and when it went before the Select Committee it was purely a Bill for the Hindus, that is, applicable to Hindus only. That is the reason why Muslims did not come into the picture at the beginning, but as it emerged from the Select Committee it was made applicable to Muslims also as such a measure could not be limited to members of anyone community. It was then that the Mussalmans found that they were also involved and their agitation against the Bill is well-known—the agitation throughout India, throughout the whole Muslim world in India.

Honourable Members: No, no.

Mr. N. V. Gadgil: Did you read Mr. Jinnah's speech in 1929?

Sir Abdul Halim Ghuznavi: On that question deputation after deputation waited on His Excellency the Viceroy and urged that it should not be made applicable to Muslims as it infringed the Muslim law, as it was against the Muslim law. It is no use saying that Hindus were helping Muslims to fight against this Bill as the Muslims themselves felt that it should not be made applicable to Muslims. Even today we have received a number of telegrams—it is no use putting them here and wasting our time. The amendment requires that at any rate seven days notice should be given. I have heard what the Honourable the Leader of the House said, and I quite agree with him.

An Honourable Member: Do you support the principle of the Bill?

Sir Abdul Halim Ghuznavi: But, Sir, the amendment only gives this relief that the injunction may be issued not later than seven days before the marriage ceremonies take place. Is it too much to ask to accept this amendment that seven days' notice should be given to stop the marriage. That is all this amendment seeks for, and I support it.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 12 the following be added at the end:

'Provided however that such injunction shall be issued at least seven days prior to the date of marriage'."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That in clause 6 of the Bill, in sub-section (2) of the proposed section 12 after the words 'such person' the words 'at least fifteen days prior to the date of marriage' be inserted."

This refers to the notice which has to be given by the Court to the party before any injunction can be issued. As far as this amendment is concerned I will state in support that my friend, Mr. B. Das, did vote for a similar amendment when the Sarda Bill was discussed in this House in 1929.

Mr. B. Das (Orissa Division: Non-Muhammadian): I have grown wiser.

Babu Baijnath Bajoria: You have turned turtle. I will refer to Volume V, 1929, page 1082: The amendment read:

"No one is entitled to complain unless he is a resident of the locality in which the marriage has taken place or belongs to the sect or the sub-sect to which the parties to the marriage belong."

Mr. President (The Honourable Sir Abdur Rahim): That has nothing to do with this amendment.

Babu Baijnath Bajoria: This refers to the 'notice preparatory to injunction.

Mr. President (The Honourable Sir Abdur Rahim): That has nothing to do with the amendment.

Babu Baijnath Bajoria: Of course, the question of injunction was then discussed in the House, and it was not incorporated in the Bill for reasons which are given in the Debates, but this provision would be there now. This matter of injunction is minor one as compared to the main complaint. Here I find his name and there are others in this House who voted with him, and then he even went further. On page 1084 we find that he moved an amendment that the words "prior to" should be there instead of "at any time after"—wanting thereby that before issuing process the Court should require the complainant.

Mr. President (The Honourable Sir Abdur Rahim): That has nothing to do with this.

Babu Baijnath Bajoria: I have made my point, Sir. As he has said he has grown wiser—I say he has turned turtle, and I will give him the advice that if he had continued in the same frame of mind that he was before and had been consistent with his previous actions, we would not have been put to all this trouble. Sir, I commend my amendment to the House.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

“That in clause 6 of the Bill, in sub-section (2) of the proposed section 12 after the words ‘such person’ the words ‘at least fifteen days prior to the date of marriage’ be inserted.”

The Honourable Sir Nripendra Sircar: Sir, I oppose the amendment on its merits, irrespective of any change of views of my Honourable friend, Mr. B. Das. But as the passage was read out, it seems to me that Mr. B. Das has been very reasonable; he moved an amendment but found that the whole House was against him and he has now grown wiser and does not want to persist in error, as other people do. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“That in clause 6 of the Bill, in sub-section (2) of the proposed section 12 after the words ‘such person’ the words ‘at least fifteen days prior to the date of marriage’ be inserted.”

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

“That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words ‘Whoever knowing that an injunction has been issued against him under sub-section (1) of this section’ the words ‘Whoever after an injunction issued against him under sub-section (1) of this section has been duly served upon him’ be substituted.”

I have already spoken about this matter before and I do not want to make a lengthy speech about it; but I say that it is only meet and proper that a person should be punished only after he disobeys the order of the Court, after the order of the Court has actually been served upon him, and not by mere hearsay—that some person comes and says “I have informed him that an injunction has been issued against him” and comes and gives evidence to that effect. It would be very unfair and unjust if he is liable to punishment or extra punishment, even if no injunction has been served upon him. I know I have not got the ghost of a chance against the strong combination in the House: still I feel it my duty to move it.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

“That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words ‘Whoever knowing that an injunction has been issued against him under sub-section (1) of this section’ the words ‘Whoever after an injunction issued against him under sub-section (1) of this section has been duly served upon him’ be substituted.”

Mr. M. S. Aney (Berar: Non-Muhammadian): Sir, I believe my Honourable friend, Mr. Bajoria, is somewhat under a wrong impression. What is wanted here is “Whoever knowing that an injunction has been issued against him, etc., etc.” The knowledge of the issue of the injunction is necessary before a man can be dealt with under this clause by the Court. If service is insisted upon, I believe it is likely that the object

[Mr. M. S. Aney.]

which the framers of the Bill have in view is likely to be defeated. But there is no likelihood of any injustice being done so long as there is this onus placed upon the party who wants to proceed against any person to prove that the man who is to be dealt with has knowledge that an injunction has been issued against him; therefore the element of proving knowledge is very important and is as good as service itself, in my opinion, because it is not easy to prove knowledge unless it can be shown that the summons was taken to his place and something was done with a view to avoid that service. Unless some such thing is proved, it would be difficult for any party to prove knowledge and, therefore, so long as the word "knowing" is there, I do not think there is any chance of this power being abused by anybody.

The Honourable Sir Nripendra Sircar: Sir, I dealt with this matter at length in my opening speech as the House will remember; and I do not want to repeat the arguments. I think I quoted to this House some extracts from Kerr on injunction showing that the general principle of law applying to injunctions is that if the person concerned has knowledge that is enough; but, of course, any man who insists on action being taken on that footing has got to prove satisfactorily that he had knowledge. But in the situation created by the Select Committee the other man must necessarily have knowledge because *ex-hypothesi* he had been served with notice and he had appeared. But if this amendment is accepted the mischief will be this, a person who has been served with notice does not choose to appear but allows the injunction to be issued and then he may very well say "I do not know, I had no knowledge. It is quite true that I had knowledge that proceedings had been started against me, but I had no knowledge that an injunction has in fact been issued against me". I do not see why there is so much insistence on this amendment when the position, if I may use the word, of the accused is fairly safe under the Bill as it has come out of the Select Committee.

Mr. President (The Honourable Sir Abdur Rahim): The question is—

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words 'Whoever knowing that an injunction has been issued against him under sub-section (1) of this section' the words 'Whoever after an injunction issued against him under sub-section (1) of this section has been duly served upon him' be substituted."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That in clause 6 of the Bill in sub-section (5) of the proposed section 12 for the words 'imprisonment of either description' the words 'simple imprisonment' be substituted."

It is provided in the Bill that the imprisonment shall be of either description—simple or rigorous: I propose that the punishment should be only simple imprisonment. It passes my comprehension why there should be rigorous imprisonment for performing any act according to our own religion, even if we violate the Act. The intention of my amendment is obvious and I do not want to say anything more. I move.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

"That in clause 6 of the Bill in sub-section (5) of the proposed section 12 for the words 'imprisonment of either description' the words 'simple imprisonment' be substituted."

Mr. M. S. Aney: Sir, I think the amendment is a perfectly reasonable one and there should be no intention on the part of the Legislature, who are in favour of these extra provisions, to be vindictive against those who, for the sake of their conscience or of their regard for what they consider to be their religion, have to break this law; and particularly those of us who at times feel that we have got a moral obligation at times imposed upon us to break laws which we consider to be immoral or irreligious or illegal should not at least think that a deterrent punishment or rigorous imprisonment must be necessary and that alone can deter a man from going against the law. Therefore, I believe no sound reason has been given for insisting upon this rigorous imprisonment as a very proper punishment for going against any injunction that might have been issued against him. The punishment of simple imprisonment will prove as deterrent in the class of persons who are likely to break this law as the punishment of rigorous imprisonment, and insistence on rigorous imprisonment would only indicate that we in India wish that certain progress in this direction should be made but we also wish that those who do not like that progress ought not to live like decent gentlemen at all on the face of this earth. That is the mentality which in my opinion is reflected in insisting upon the retention of rigorous imprisonment as a punishment for that. I, therefore, appeal to my friends that so far as this amendment is concerned, they should take a more charitable and more lenient view of the whole matter and they will be right in supporting the amendment which is moved by my friend, Mr. Bajoria.

Sardar Sant Singh (West Punjab: Sikh): I think the House is entitled to know the reasons which led the Select Committee to insert the provision about rigorous imprisonment instead of simple imprisonment. As a matter of fact several of us were of opinion that the provision for punishment should be simple imprisonment. But the expert advice turned the scale in favour of imprisonment of either description. This expert advice was tendered by my Honourable friends, the Members on the Congress Benches. They said that rigorous imprisonment was better imprisonment than simple imprisonment. This expert advice could not be disregarded. After this explanation, I do not think that any one can have any objection to changing this provision into simple imprisonment.

The Honourable Sir Nripendra Sircar: I think Honourable Members are assuming that in every case the Magistrate is bound to inflict a punishment of rigorous imprisonment and that it will be of one year. That is not so. Court has the option of making it simple or rigorous. It may be a very bad case. Suppose a child of one year, for the sake of money, has been allowed to be married, why should not the magistrate award rigorous imprisonment? Why should it be simple imprisonment? The punishment must fit the crime. That is the reason why option has been given to the magistrate to inflict rigorous imprisonment which should be done in very bad cases. It may be simple or it may be rigorous. There is no question of anybody being vindictive. We have no vindictiveness against anybody but we do think that in very bad cases, as I said, the magistrate should have the power to inflict rigorous imprisonment and in illustration of my point that I am not vindictive, may I inform my friend that when he moves his No. 24 we shall probably agree to it.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 6 of the Bill in sub-section (5) of the proposed section 12 for the words 'imprisonment of either description' the words 'simple imprisonment' be substituted."

The Assembly divided.

AYES—24.

Abdoola Haroon, Seth Haji Sir.
Abdul Ghani, Maulvi Muhammad.
Abdullah. Mr. H. M.
Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Bhagchand Soni, Rai Bahadur Seth.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Chattopadhyaya, Mr. Amarendra Nath.
Datta, Mr. Akhil Chandra.
Ghulam Bhik-Nairang, Syed.
Ghuznavi, Sir Abdul Halim.
Ismail Khan, Haji Chaudhury Muham-
mad.

Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kannta.
Malaviya, Pandit Krishna Kant.
Murtuza Sahib Bahadur, Maulvi Syed.
Parma Nand, Bhai.
Sant Singh Sardar.
Shahban, Mr. Ghulam Kadir Muham-
mad.
Shaukat Ali, Maulana.
Siddique Ali Khan, Khan Sahib Nawab.
Umar Aly Shah, Mr.
Ziauddin Ahmad, Dr. Sir.

NOES—74.

Abdul Hamid, Khan Bahadur Sir.
Abdul Qaiyum, Mr.
Abdul Wajid, Maulvi.
Ahmad Nawaz Khan, Major Nawab Sir.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bewoor, Mr. G. V.
Boyle, Mr. J. D.
Buss, Mr. L. C.
Chanda, Mr. A. K.
Chaudhury, Mr. Brojendra Narayan.
Chunder, Mr. N. C.
Conran-Smith, Mr. E.
Craik, The Honourable Sir Henry.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Das, Mr. B.
Das, Pandit Nilakantha.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
DeSouza, Dr. F. X.
Dow, Mr. H.
Fazl-i-Ilahi, Khan Sahib Shaikh.
Gadgil, Mr. N. V.
Ghiasuddin, Mr. M.
Gidney, Lieut.-Colonel Sir Henry.
Gilbert, Mr. L. B.
Govind Das, Seth.
Griffiths, Mr. P. J.
Gupta, Mr. K. S.
Hans Raj, Raizada.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar
Sir.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.

Kamaluddin Ahmed, Shamsul-Ulema.
Kushalpal Singh, Raja Bahadur.
Lloyd, Mr. A. H.
Mackeown, Mr. J. A.
Mangal Singh, Sardar.
Matthews, Mr. V. G.
Menon, Mr. P. A.
Metcalfe, Sir Aubrey.
Misra, Pandit Shambhu Dayal.
Paliwal, Pandit Sri Krishna Dutta.
Fande, Mr. Badri Dutt.
Raghubir Narayan Singh, Choudhri.
Rahman, Lieut.-Col. M. A.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. Thirumala.
Row, Mr. K. Sanjiva.
Saksena, Mr. Mohan Lal.
Santhanam, Mr. K.
Scott, Mr. J. Ramsay.
Sen, Rai Bahadur N. C.
Sham Lal, Mr.
Sheodass Daga, Seth.
Sher Muhammad Khan, Captain
Sardar Sir.
Singh, Mr. Gauri Shankar.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Sircar, The Honourable Sir Nripendra.
Sivraj, Rao Sahib N.
Som, Mr. Suryya Kumar.
Spence, Mr. G. H.
Stewart, The Honourable Sir Thomas.
Subedar, Mr. Manu.
Sukthankar, Mr. Y. N.
Sundaram, Mr. V. S.
Varma, Mr. B. B.
Walker, Mr. G. D.

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words 'three months' the words 'two months' be substituted."

Sir, as the Honourable the Leader of the House said that he is at last going to accept

The Honourable Sir Nripendra Sircar: I have changed my mind.

Babu Baijnath Bajoria: You have changed your mind? Sir, even a responsible Member of the Government and the Leader of this House after making a statement on the floor of the House a few minutes previously changes his mind only a few minutes after (*An Honourable Member:* "That was before the Division"), so I hope that if he hears me also for a few minutes, probably he may again change his mind after a few minutes. Sir, this amendment seeks that the term of imprisonment should extend not to three months but to two months. In the main section it is provided that if there is any breach of the Child Marriage Restraint Act, then the imprisonment is to be only for one month. I may read out section 6, sub-section (1); I shall not read the whole of it.

"Where a minor contracts a child marriage any person having charge of the minor shall be punishable with simple imprisonment which may extend to one month."

Here, it is both "simple imprisonment" and for one month only. Unfortunately the Leader of the House has not agreed to my previous amendment, not under this section, but in this clause 6, sub-clause (5) it says that if an injunction is disobeyed, then there will be rigorous imprisonment; then the term of the imprisonment also has been increased by two hundred per cent. I submit that two months is more than sufficient and I would again request the Honourable the Leader of the House to consider whether he cannot change his mind again. But I know that there is another motive for his changing his mind. It is not with respect to the merits of this amendment but for other considerations. I thought he would discuss each and every amendment on its merits. (*An Honourable Member:* "The Honourable Member will not cut any ice by flattering the Leader of the House".) Sir, the Honourable the Leader of the House does not deserve my flattery over this Bill but he deserves my severest condemnation because it is he, I say, who has been piloting this Bill and not these dumb-driven cattle on my right. This Bill, Sir, has become his adopted son.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved.

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words 'three months' the words 'two months' be substituted."

The Honourable Sir Nripendra Sircar: Sir, I owe it to my Honourable friend, Mr. Bajoria, and to this House to explain why I cannot agree to this amendment in the face of my previous statement. My Honourable friend reminded me that I was a very shrewd lawyer, but he only brings out the fact that even shrewd lawyers, though I do not claim to be one, make mistakes and I made one. Sir, when I said that I would accept that amendment, my Honourable friend, Mr. Bajoria, said that it was a very small matter. Possibly that was the reason why I thought, I would not fight very strenuously over an extremely small matter. My friend is also right in saying that other considerations have influenced me in changing my mind. That is quite true. That other consideration is that by reason of the rule

[Sir Nripendra Sircar.]

which Honourable Members will find at page 34 of the Manual, if I accept this amendment, however slight it may be,—a change from three to two months—then the third reading of the Bill cannot be brought on today. Government has supported this Bill and allotted a day yesterday for its expedition; and Government does not want to accept an amendment which, though apparently trivial, will defeat that very object so that the third reading stage cannot be reached today. Sir, I oppose the amendment.

Babu Baijnath Bajoria: But you have given other days for this Bill?

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 12 for the words 'three months' the words 'two months' be substituted."

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That in clause 6 of the Bill, to the proposed section 12 the following *Explanation* be added:

Explanation:—The Court referred to in sub-sections (1) to (4) of this section is the Court of a Presidency Magistrate or that of a Magistrate of the first class having jurisdiction."

Sir, this *Explanation* is necessitated by section 8 where it is said that the Court having jurisdiction to take cognizance of an offence under this

1 P.M. Act shall be a Court of the Presidency Magistrate or the Magistrate of the First Class. Now, this section 12 is a new section and it says that an injunction can be issued by the Court. The word "Court" alone is used there. An injunction is not an offence and, therefore, it does not come under section 8. Therefore, the general word "Court" which is used in section 12 may mean any subordinate Court or it may even mean a civil Court. In the earlier section (section 2) where various terms are defined, the word "Court" for purposes of this Act is not defined. Therefore, neither in the definition portion nor in section 8, where the "Court" having jurisdiction to try an offence is specifically described, the term "Court" in the manner in which it applies or it has jurisdiction, to pass an injunction under section 12 is defined. I have restricted the *Explanation* to sub-sections (1) to (4) only where alone the word "Court" appears. In the case of sub-section (5), after the injunction is broken, the Court which has got jurisdiction is the Court which is described in section 8. Once an injunction is broken it becomes a substantive offence for the purpose of trying an offence and the Court which has the jurisdiction is either the Court of the Presidency Magistrate or the Court of the First Class Magistrate. Therefore, I have restricted the *Explanation* to sub-section (1) to (4) and it is not necessary to extend it to sub-section (5). This could have been avoided if the word "proceeding" had been introduced in section 8, but we have passed it over. Therefore, it is necessary to correct it at this stage.

Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

"That in clause 6 of the Bill, to the proposed section 12 the following *Explanation* be added:

Explanation:—The Court referred to in sub-sections (1) to (4) of this section is the Court of a Presidency Magistrate or that of a Magistrate of the first class having jurisdiction."

The Honourable Sir Nripendra Sircar: Sir, I would ask my Honourable friend to withdraw this amendment and for this reason. I admit that the object of his amendment is to clarify the situation, so that there may be no confusion. But I do think that there is reasonable fear of confusion in the Bill, as, having regard to the use of the word "Court" in clauses 5 and 6, it is extremely improbable that one meaning will be attached to the word "Court" in the first section and another meaning in the other section. I am not prepared to say that there is no substance of any kind whatsoever in the arguments which have been advanced by my Honourable friend; but, on the other hand, I think there is no reasonable danger if this amendment is not accepted. I will, therefore, ask my Honourable friend not to press for this amendment in the interests of the passage of the Bill.

Mr. M. Ananthasayanam Ayyangar: Sir, in view of the statement made by the Honourable the Leader of the House that he finds that there is no ambiguity, I do not press my amendment and I beg leave of the House to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Babu Baijnath Bajoria: Sir, I move:

"That at the end of the Bill the following new clause be added :

7. The following section shall be added as section 13 of the said Act, namely :
13. That nothing contained in this Act shall apply to a person who by an affidavit solemnly affirmed before a magistrate of the first class declares that the due performance of a marriage in conformity with the provisions of this Act interferes with his religious belief."

Sir, this is a very small and modest amendment. I would rather say that this is a trump card in my hands. I have failed in all my amendments and the other side have had their way all through. I do not grudge them if they will only concede to me this. After all, what do I want? The amendment that I am now moving is just like a saving clause. It gives protection to conscientious objectors. Government has been saying time and again that they do not interfere with the religion of anybody. They said that the Sarda Act and this amending Bill are not religious matters but are matters of social reform. We, the Sanatanists, and those who are of our way of thinking want to be protected. What we say is that marriage is a sacrament and if you interfere with our marriage ceremonies, you interfere with our sacred custom. You do not allow us to perform our religious ceremony as we would like it to be performed. You will interfere with our religious belief. Those who want that they should marry at a later stage and those who have got no faith in the Shastras . . . (Dr. G. V. Deshmukh : "They are also Sanatanists.") I am glad you also call yourself a Sanatanist. This new section will not only protect me but will also protect you. Dr. Deshmukh, who has taken the trouble of coming to this Assembly by means of an aeroplane from Bombay, if he wants to take advantage of this section, he will be quite at liberty to do so just as I or anybody else will be at liberty to do so. This clause will protect the Government and they will be able to preserve their principle of religious neutrality which they have claimed to follow ever since the British rule came into existence in this

[Babu Baijnath Bajoria.]

country. This clause will also give the required relief to numerous, shall I say, millions and millions of people. I do not want to take up the time of the House. I have every hope that at last good sense will prevail in the minds of Honourable Members. Whatever else they like to do for themselves, for God's sake, leave us alone so that we who believe in our Shastras might perform our religious sacraments according to our conscience and according to our religious beliefs. I hope, Sir, that my voice will not be as cry in the wilderness.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

"That at the end of the Bill the following new clause be added:

"7. The following section shall be added as section 13 of the said Act, namely:

"13. That nothing contained in this Act shall apply to a person who by an affidavit solemnly affirmed before a magistrate of the first class declares that the due performance of a marriage in conformity with the provisions of this Act interferes with his religious belief."

The Honourable Sir Nripendra Sircar: Sir, my Honourable friend hopes that at last good sense will prevail, but in that matter, I am in despair when I think of him. Now, Sir, what is the object of this amendment? If a person wants to get out of this Act, he has simply to file an affidavit stating that, if he performs the marriage in terms of this Act, his religious beliefs will be interfered with. What if that statement be false? No punishment is prescribed. Does my Honourable friend realise that there will be no punishment at all. False statements in affidavits will be punishable as a crime if they are given in the course of a judicial proceeding. This is really not setting an example of good sense, but it is the opposite. The man has got to swear only an affidavit from which no consequences follow. I dare say my Honourable friend will have got ready printed a few thousands of copies containing this formula and if any person wants to get out of this Act, he has simply to sign that form.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I rise to a point of order. I submit this amendment is entirely out of order. It is beyond the scope of this amending Bill.

Mr. President (The Honourable Sir Abdur Rahim): Why was not this point of order raised before?

Mr. K. Santhanam: This amendment is entirely outside the scope of this amending Bill. I submit that only amendments to the amending Bill could be introduced. The amendment which has just now been moved by my Honourable friend is entirely a new clause sought to be introduced in the original Act. His amendment does not seek to apply to the amending Bill that is now before the House.

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member mean to say that in an amending Bill no new clause can be added?

Mr. K. Santhanam: Only so far as they are relevant to the sections amended by the Amending Bill. It is only such amendments can be moved and not others. Otherwise we can put 100 new sections to the original Act and thus virtually bring in a new Bill. I, therefore, submit this amendment is entirely out of order.

Mr. President (The Honourable Sir Abdur Rahim): I ought to point out that the amendment moved by Babu Baijnath Bajoria has been before Honourable Members so long that if a point of order had to be raised it ought to have been done at an earlier stage, not after the amendment has been actually moved and is under discussion. If the argument is that a new clause cannot be added to an amending Bill, that is an argument in which I see no force. What this new clause seeks to provide is that certain persons should be exempted from the operation of the Act. The amendment reads:

"That nothing contained in this Act"

The question is, to what Act does this refer? If it refers to the Amending Bill, then it is in order. If it refers to the original Act, then this amendment will be out of order.

Some Honourable Members: It refers only to the original Child Marriage Restraint Act.

Mr. K. Santhanam: The amendment contains the expression "marriage in conformity with the provisions of this Act".

Mr. President (The Honourable Sir Abdur Rahim): I take it that there are no provisions in this amending Bill regulating the performance of marriages.

Some Honourable Members: None.

Mr. President (The Honourable Sir Abdur Rahim): Apparently there are restrictions relating to marriages only in the old Act, as regards age, etc. So, what is referred to as "this Act" must be the original Act, that is the Child Marriage Restraint Act of 1929, to which is sought to be added section 13. If that is the intention, as it evidently is, as I find now on a more careful reading of the amendment, the Chair must rule it now out of order as being outside the scope of this Bill.

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.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. B. Das: Sir, I move:

"That the Bill, as amended by the Select Committee, be passed."

I am thankful to the Honourable Members of this House for the way in which they have received this Bill. Without the co-operation of the House and particularly of the Members of Government it would not have been my happy fortune to move the motion which I am moving now. I may remind the House that it was with Government co-operation, through the persuasion of my Honourable friend, Dr. Deshmukh, that we on this side of the House were able to introduce on a Government day some of the social legislations that have been introduced. Two of them have been

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already passed and the third is shortly to be placed on the Statute-book. Sir, everybody knows that the Congress is wedded to social reform. The Congress wants that the standard of living, the physical, intellectual and moral conditions of the people, should be raised to a higher plane. It is with that objective that some of us are actuated and are trying to improve the conditions of the people by preventing clandestine child marriages, so that there will be no more child widows, as happened before.

Sir, I take this opportunity to recognise the tenacity and the pertinacity of my Honourable friend, Mr. Bajoria, and the way in which he has defended a lost cause for which he stands before this House. But we must admire and the House must admire the way in which he has defended the cause which he advocated. I only wish that he had not introduced an amount of levity which he did while speaking on the motion for consideration; and that reminded me of the cartoon that was published in the *Hindustan Times* two days ago where little "Snow White" with seven little dwarfs was trying to pilot the Child Marriage Bill and Mr. Bajoria happened to be the only ogre who wants that child marriages should continue. From the way in which he lashed his fury towards his friends on his right as well as towards his friends on his left I felt that there was marvellous intuition in that artist "Shankar" of the *Hindustan Times*, when he divined what Mr. Bajoria's mind was working at. Sir, we all admire the business instincts of the great Marwari community but we do not admire their religious tenacity and their orthodoxy which is not a real feature of their lives, because we do not find any orthodoxy in their business and in other spheres of life. There we find they have out-Heroded Herod and even outwitted the Jews of Austria and Germany.

Sir, I received, of course unsolicited, certain letters and telegrams this morning and yesterday. Like Mr. Bajoria, I will give the names of the senders of these unsolicited telegrams. They are from the Secretaries of the All-India Agarwal Mahasabha, the All-India Maheswari Mahasabha, the Marwari Sabha, the Marwari Trades Association. It is easy for Mr. Bajoria to say that these are all mushroom Associations, and the Marwari Association which has the privilege of sending him to this House is the only representative body which can speak on the moral and ethical side of the Marwaris. I told him on another occasion that that Association can speak on the business aptitude of the Marwaris and nothing else, and I do hope my Honourable friend will bear that in mind. I will just read the last sentence from the resolution of the Marwai Sabha which has been sent to me:

"The Sabha at the same time clarifies here that if any M.L.A. has protested against the said Bill he might have done so according to his personal belief."

I will advise my Honourable friend, Mr. Bajoria, that when he goes back to Calcutta he may settle accounts with all the Marwari Associations and find out for himself the true state of affairs. I have mentioned that Mr. Bajoria was fighting a lost cause and when I sum up his attitude on the last two days on the floor of this House I am reminded of the poet's (Dryden's) words:

"By education most have been misled,
So they believe, because they so were bred.
The priest continues what the nurse began,
And so the child imposes on the man."

At the same time I can tell my so-called Sanatanist friends that if Sanatanism means the real essence of the Hindu religion, in the words of my Honourable friend, Dr. Deshmukh's interruption of Mr. Bajoria this morning, we are all Sanatanists. I am a Sanatanist Hindu as my Honourable friend, Maulana Shaukat Ali, is a Sanatanist Muslim.

Maulana Shaukat Ali (Cities of the United Provinces: Muhammadan Urban): No, no; I am just a Muslim, not a Sanatanist or an Arya.

Mr. B. Das: Then I will say that of Sir Abdul Halim Ghuznavi who likes to borrow that phrase from the Hindu language. But some of my Sanatanist friends have told me that the Bill as it has emerged from the Select Committee has been whittled down by 12 annas; and I have seen some glee and pleasure in their faces. It may be that the Bill has been whittled down a bit, but the whole object of this side of the House and also of Government who gave us valuable support and expert advice is that social legislation should be so framed that it will raise the standard of thought of the people at the same time without working unduly harshly on the population. With that object in view we did yield in the Select Committee and we did away with one or two clauses that might have worked harshly. At the same time we are grateful to Government for the assurance which the Honourable the Law Member has given that if *ex parte* injunctions are to be required later on, because our Sanatanist friends are still misguided enough to go on performing child marriages, Government will take steps to bring forward their own measure.

Here I shall make an appeal to the Honourable the Home Member. His Department is the custodian as to how such an act is to be worked. If his Department would issue complete instructions to the officials in the provinces and in the Centrally Administered Areas to watch over events and to see that nobody violates the intentions of this Act, in three or four months they will find out the correctness of the apprehensions of some of us that there would still be evasion, and that Government would have to bring forward a provision giving power to magistrates to issue *ex parte* injunctions.

I have received many telegrams. I am glad the Orissa Women's League has asked the Government and the Members of this House to see this Bill soon placed on the Statute-book. (Mr. Satyamurti "Is your wife a Member?") My wife happens to be a member and Lady Hubback, the wife of the Governor, is the President of that Association which is working for the common good of womenkind. I have received a telegram from the various Marwari Associations I referred to a few minutes ago requesting Government and the Legislature to pass the Bill immediately. They say that attempts are being made all over India among the Marwari community to take advantage of the present law and to perform as many child marriages as possible. I am sorry the telegram is mislaid, but the associations are accredited bodies, and they can speak with authority. I hope Government will render the same help which they have rendered in this House and see that this Bill is passed in the Council of State in the course of the next week, so that in the course of a week this Bill will be on the Statute-book.

I wish to refer only to one point. My Honourable friend, Mr. Bajoria, was waxing eloquent and talking of blackmail and conspiracy against marriages in his community. Here is a letter from Mr. Mati Lal Deora,

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Secretary of Marwari Sabha, 161, Chittarnjan Avenue, Calcutta, in which he cites the ages in a number of cases of Marwari and Maheswari boys and girls who have been married under age. Girls are below 14 and boys below 18. The ages referred to in the school registers are such, and the law was so interpreted that the magistrate did not accept the age limits and acquitted them. These are the cases: *Sewrataulal Binani vs Ram-Kissen Kothari*, *Siwaratanlal Binani vs Shedmull Kedia* and others, *Sewaratanlal Binani vs Rameshwari & others*, *Sewaratanlal Binani vs Joychandal Shroff and Brijlal Shroff vs Ramdeo Murarka* and others.

Though the House listened with a very tolerant spirit to Mr. Bajoria

Mr. M. S. Aney: The House did not give him a tolerant hearing.

Mr. B. Das: My Honourable and esteemed friend, Mr. Aney, says that the House was not tolerant to Mr. Bajoria. Probably the members were tired of the repetitions of Mr. Bajoria and were at times intolerant, but in citing these cases I want the Honourable Members to remove from their minds the impression that everything is fair in that particular city of Calcutta which Mr. Bajoria has the honour to accept as his place of exploitation or birth.

Babu Baijnath Bajoria: As the place of birth.

Mr. B. Das: I am glad to know that. I hope my Bengalee friends are happy at the honourable acquisition they have got in Mr. Bajoria, but in that esteemed city of Calcutta there are members of the Marwari community who are always eager to evade law particularly the Sarda Act, and yet they cry here in the name of God, they talk of religion, they talk of ethics, whereas generally lies are uttered in law Courts, laws are evaded

Babu Baijnath Bajoria: Lawyers are the worst liars.

Mr. B. Das: They are trained by Mr. Bajoria and his friends to utter lies in the Courts. If at all lawyers tell lies, their clients induce them to tell these lies on their behalf.

My Honourable friend, Mr. Sri Prakasa, likes to speak on behalf of Man, but I would say that as long as man-made laws rule the fate of women, they ought to have a better chance.

I take this opportunity of thanking the sympathisers of the cause of Indian womanhood in England and abroad particularly Miss Eleanor Rathbone, Member of Parliament, who took such keen interest and but for whose active interest in the evils of child marriage, it would not have been possible for me to bring in this measure on the floor of the House. I take this occasion also to acknowledge my obligation to my Honourable friend, Mr. Joshi, who helped me so much in the original drafting of this Bill. I only hope, Sir, that the Home Department and the officers of the Government of India who did not like to work the Sarda Act in the correct spirit in which it ought to have been worked, will strictly work to the spirit of this law, this new Act, and in fact I know that is the view of my esteemed friend, Mr. Aney. We do not want any law to have any loopholes whereby people can undo the spirit of the law and create much more hardship to the girls and women of India. Sir, the women of India

have advanced their interests a step further by this measure and I do hope that the Honourable the Home Member will give us an assurance that the department which he controls throughout India will see that the spirit of the law is so worked that no undue hardship is caused, that no child marriages will be performed, and that 10 or 20 years hence 'girl widows' will be a word to be found only in stories of the past.

Mr. Deputy President (Mr. Akhil Chandra Datta): Motion moved:

"That the Bill, as amended by the Select Committee, be passed."

Mr. M. S. Aney: Sir, this Session I believe will be remembered for having been successful in having put on the Statute-book two important pieces of legislation relating to the Sarda Act. It is true that the Act as it stood has had some defects and they were availed of by a very large number of people. That is a fact and any attempt to remove those defects and to facilitate the smooth working of the beneficent provisions of the Act was bound to be welcomed by a House which is responsible for bringing the Sarda Act itself on to the Statute-book. But in this connection, I also wish to make a few observations.

If anything should have been permanently learnt by us from the manner in which the Sarda Act was received by the people, it is this: that any social legislation that is passed in defiance of real public opinion behind it stands very little chance of being received in the spirit in which it ought to be, because the very basis of this new Act was this, that the Sarda Act was being disregarded in a very large number of cases and it has been reduced practically to a dead letter. Those who know the history of the Sarda Act itself can testify to what I am going to say now.

One of the main grounds that was put before the House when my esteemed friend, Mr. Sarda, brought his measure in this House, was this: he said that there should be some impetus for the social reformers to carry on the propaganda of social reform by means of persuasion, and that impetus can be had if there is some Statute on record which they can show to the people that in case this is not done, there is some law there. Unfortunately for a measure like this, the Statute was not demanded for the sake so much of bringing the people to book, or to introduce a large number of prosecutions against them, but as a handle in the hands of social workers to intensify their efforts for the sake of popularising the cause of adult marriage. If that was one of the objects which the framer of the Sarda Act had in mind, considering the laudable object which he had in mind, I believe every one of us is in sympathy with that object. Now, what we find is this: it is true that there is one friend of mine at least who has told us—and I believe that he has made personally a great effort to fight against the abuses of this Act and the attempts at evasion of the provisions of this Act by people—that he is still working a good deal in that direction. But may I take the opportunity of saying, without meaning any disrespect to a great many friends of mine who have been working disinterestedly in the field of social reform, that I do not find any very real efforts or organised efforts made by my friends, who have a reformist zeal in their minds, to organise themselves in proper form with a view to intensifying the work which Mr. Sarda had in mind. Attempts at persuasion slackened immediately, as a means of coercion was brought on the record. This is what I find. If these two things had gone hand in hand, probably the need for bringing in new legislation would not have been felt so keenly, as evidently we feel it today and which alone induces us to give our consent to a measure of this

[Mr. M. S. Aney.]

kind. What I find therefore is this: in the matter of social reform, it is not merely legislation that can help us—whatever may be the Government, whether it is a foreign Government or an indigenous Government, it will always be reluctant to enforce very strongly and on a large scale measures of a kind which are bound to create a good deal of discontent in innumerable families. Therefore, the great necessity is to create a strong public opinion.

Now, it is true that whenever we elicit any public opinion like this we get a number of opinions and if we analyse them we find that out of 100, about 95 are in favour and 5 are against. I am prepared to accept all that; still there is a class of people in this country which never knows how to explain itself, and that class of people, somehow or other, we have to admit, is dumb and mute; they are convinced neither this way nor that way; they believe in living in their old old ways. I do not think that is a desirable state of things; that inertness has to be broken, that inertness has to be changed, has to be modified for the better; but the responsibility for bringing about that necessary transformation and that essential change and that slow modification in their mentality is ours. Those who stand for the cause of reform, they should rely more upon moral efforts to persuade the people to their point of view, to reconcile them to a new situation, without which our future progress is likely to be barred, than upon their bringing certain measures, reflecting their views, on the Statute-book. It will be on the Statute-book as it is bound to be. But what guarantee is there, let me ask this House even now, that some loopholes will not be found to get out of this Act? What guarantee is there that this new Act, like the old Act, will not become a dead letter? Our real hope lies in this, that there is a feeling in the minds of the people themselves to adapt themselves to the new situation which an Act like this demands; and how can they come in? That is the problem which I want my friends to consider and I have taken the opportunity of making these observations on the third reading of the Bill for this reason.

I really congratulate my friend, Mr. B. Das, on having successfully piloted this Bill and also my friend, Mr. Navalrai, who has got a similar measure passed in this House a few days ago. These two defects are removed. Your way, so far as the Legislature is concerned, is I believe now sufficiently clear, and I hope you will not stand in need of coming again before this House within a short time with a new demand or a new measure for making the provisions of this Act still more tight and still more difficult of evasion; because it is the mentality of evasion that has to be overcome; and it cannot be overcome merely by passing strong and stringent measures in this House. That is my point. For that, moral propaganda, social and reformist propaganda has to be carried on, and how is it to be carried on? Let us see. Whenever Mahatma Gandhi wants to do any particular thing, what is the measure he immediately adopts? He immediately creates a big association which has ramifications all round the whole country in different parts, and he has a certain supervising staff and means of getting the work executed from the various little institutions all over the country. Look at the manner in which he has conducted the Indian Spinners Association; look at the way he is doing his rural uplift work; look at the way he has organised his recent new-born child, about this educational reform—look, how he is doing it.

Now, that is the spirit in which the reformer must enter into this work. Notwithstanding all the great work that has been done by reformers for many of whom I have the very greatest respect, I must admit that their present friends have become more or less hangers on legislative assistance to help their cause more than upon making sustained and organised efforts of this kind, and without sustained and organised efforts outside I do not believe the assistance that is given by Legislature will really prove to be of much avail in bringing about the necessary change in the society, which we all desire. This is not meant to say that the change we have made is of no use at all. That is not my idea. It is of great use but mere reliance on the Courts, on the police and on certain bodies to bring the cases to the Courts will not do. There must be a great moral campaign in this matter and you can make use of this only as a handle to help you hereafter and I trust that the necessity for coming out with legislation of this character will be entirely eliminated. It is in that hope that I give.... (*An Honourable Member*: "Blessing"!) Well, I am too small a man to use a word like this. It is in that spirit that I give my consent to the motion that Mr. Das has brought before this House.

The Honourable Sir Henry Craik (Home Member): I should like to express my entire agreement with my friend, Mr. Aney, in nearly every word of his very able speech. I fully agree in particular that the chief hope of the social reformer in this country, and indeed in any country, lies in the gradual moulding of public opinion in favour of his reforms. It is not really by legislative measures that you can bring about a great change in this field. It is by the gradual education and the gradual influencing of public opinion. There I entirely agree with him and it was on that account that I ventured, in speaking on the second reading of this Bill, to warn the House not to neglect the fact that there is undoubtedly a certain volume of opposition to this particular measure. Now, Sir, I intervene in this debate for the purpose of explaining the reasons which have led Government to give its support to this Bill.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Identifying yourself.

The Honourable Sir Henry Craik: Yes, if you like, identifying ourselves. Naturally, in matters of social reform, the position of an irresponsible Government is one of very great delicacy and I think the only canon that can guide Government in deciding on its attitude in a matter of this kind is this—that it must, so far as it is possible, by means of consultation with public opinion satisfy itself that the overwhelming majority of the opinion of those affected by the measure is in favour of it. Then and then only should Government take an active part in supporting a measure of this nature. That criterion, I think I can claim, has been fulfilled. The Bill has been before the public for a long time and an enormous mass of opinions have been collected. On a very careful analysis of those opinions we came to the conclusion that although there is, as I have said, undoubtedly a considerable body of opposition to the Bill, nevertheless it is true to say that the overwhelming majority of those affected by this measure are in favour of it (*Some Honourable Members* "Question.") Well, perhaps it is open to question and I admit that it is a matter of opinion. But you must remember that in this particular matter Government did not start with a clean slate. The measure forbidding the marriage of children under certain ages was passed with the support of Government

[Sir Henry Craik.]

8 or 9 years ago and passed by a large majority of this Assembly. To that extent Government is committed to the principle of stopping early marriages. The question we are dealing with here today is not whether early marriages are or are not desirable. That question was settled nine years ago. The question we are deciding today is whether the measure that was enacted nine years ago has failed in its purpose and, if so, whether anything should be made to make it more effective. That is the object of Mr. Das' Bill and that, Sir, is the only object of Mr. Das' Bill. It lays down no fresh principles or moral standards. It merely says that as the legislation we enacted nine years ago has failed in its object, something must be done to make it more effective and that something has to be done not by way of punishment, but by way of prevention. That is the point of this Bill.

Now, Sir, I have admitted, and it would be impossible for any one to deny that there is undoubtedly a certain amount of opposition to this measure and that has been voiced during the last two days in this House. If I may say so, it has been voiced with courage and great good humour. I am the last person to deny the force of the objections that have been urged but it does seem to me that if you come down to the essential basis of the opposition, it is founded to no small extent on false thinking. My Honourable friend, Mr. Bajoria, repeated more than once that marriage is a sacrament, and I take it that his chief ground of opposition to this Bill is that it is not the function of a legislature of a secular character like this to interfere with a religious sacrament. I take it that that is the foundation of the opposition to the Bill. Is that, when you come to examine it closely, a position that can be logically maintained? Marriage is undoubtedly a sacrament. Every religion claims that for its marriages, but marriage is a good deal more than a sacrament and surely Honourable Members can see that Marriage is a contract for life-long association and comradeship and when there are two parties to that contract, it is up to the State to see that both parties get a fair deal. Now, can you honestly claim that a child of ten married to a man of many years older than herself is getting a fair deal? It is not in human nature and when you say that marriage is a sacrament, a proposition in which personally I entirely agree, try to remember that marriage is a great deal more than a sacrament. Marriage means the life-long association of two parties in a tie so close that once it becomes repugnant or distasteful to either it is completely unbearable. It is not fair for the State to stand idly by when it sees two parties entering into such a contract and knows that at least one of them is too young and too ignorant to realise the position in which she is placing herself. That is the legitimate justification for the Government of the day, no matter what its complexion or constitutional position, supporting a measure of this kind. I hope that the House will by a majority endorse what I really believe is the opinion of the great mass of people outside this House on this question and will pass this Bill.

Sardar Bahadur Captain Dalpat Singh (Nominated Non-Official): Sir, I welcome this measure and I congratulate the Mover of this Bill. It would benefit all classes of people and it would particularly be useful to the martial classes. As you know the young men of the martial classes are not eligible for admission to Indian Sandhurst at Dehra Dun for King's Commission, if they are married, and thus the young man's career is ruined. The Sarda Act did a lot of good but it did not grant

adequate protection. I think the present Bill leads us one step further. and it would be easier now to check the evil by prosecuting the offenders, and it would also be possible to prevent the commission of an offence by an injunction. It would develop the manhood of India and make them fitter for military service. Sir, I dare say that this House has done a very very useful service by agreeing to pass this most important Bill. With these words, I support this Bill. (Hear, hear.)

Mr. N. M. Joshi (Nominated Non-Official): Mr. Deputy President, I have great pleasure in supporting the motion that this Bill be passed. Sir, it is admitted on all hands that the Sarda Act, on account of the weakness of its provisions for the enforcement of its sections, has been ineffective. If the Act was to prove useful, and in order to prevent the legislation being a dead letter, it was absolutely necessary that legislation should be passed removing the defects which had made that measure ineffective. Sir, my Honourable friend, Mr. B. Das, deserves great credit for introducing and piloting this measure through the Assembly. I have known Mr. Das long before he became a Member of this Assembly. I knew the great interest which he had always taken in public questions and questions of social reform, and I may be permitted to say on this occasion that Mr. Das has added very greatly to the public services which he has rendered during his long career as a Member of the Legislative Assembly. (Hear, hear.) I may also, Sir, be permitted to give due credit to the Congress Party to which Mr. Das belongs. I have no doubt that without the support of that Party, there would have been difficulties in the way of this legislation. It is also necessary to recognize the services of all these gentlemen who have done their very best to draw attention to the defects of this measure. In this connection my Honourable friend, Mr. B. Das, did well in referring to the services of those women and men who have helped in drawing attention to the defects of this legislation. Sir, Mr. Das also did well to make a special reference to Miss Rathbone. I know from my own knowledge that there is not a single individual who has done more than Miss Rathbone to draw attention to the defects of this legislation. Sir, Miss Rathbone is well known for her sympathies, and for her solicitude for the oppressed all over the world, and she gave her attention very promptly to the working of the Sarda Act; and when she found that there were defects, she made great efforts to draw the attention of the people of this country towards those defects. Sir, although there is great credit due to Mr. Das and the Congress Party and all those who have made great efforts to create public opinion, we must all admit that the Bill would not have been passed at all if the Government had not supported it. Therefore, we must recognize that the services rendered to the cause of Indian social reform by my Honourable friend, Sir Nripendra Sircar, and by my Honourable friend, Sir Henry Craik, are incalculable. (Hear, hear.) May I now say one word more about the support which Sir Nripendra Sircar has given in the passing of this Bill in this House? Sir, it is said that he adopted the Bill as his own. I feel, Sir, that if he adopted the Bill as his own, he treated it as his real child and not like an adopted child. It is, therefore, necessary to recognize the great services which Sir Nripendra rendered in piloting this measure through this Assembly. (Hear, hear.) Let me also express my admiration for my Honourable friend, Mr. Baijnath Bajoria. (Hear, hear.) Sir, we have no ground for complaint against the attitude that he adopted towards this measure. As a Member of the Assembly, he had every right to express his views and offer opposition, but, Sir, I feel

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somewhat sorry that Mr. Bajoria should have devoted all his fighting qualities on behalf of this lost cause: he should have used them for better purposes. (Hear, hear.) (*An Honourable Member*: "Against labour.")

Sir, we are all glad that this Bill is to be passed just now by this Assembly. But we feel a little disappointed that the Select Committee and the Legislature should have whittled down the provisions of the original Bill introduced by my Honourable friend, Mr. B. Das. The original Bill contained three main clauses. It provided that the bond to be taken

Mr. Deputy President (Mr. Akhil Chandra Datta): I have said that we are not concerned with that now.

Mr. N. M. Joshi: I shall only say one word on a point which was raised by my Honourable friend, Mr. Aney, and which was supported by the Honourable Sir Henry Craik. Sir, the point which was made by Mr. Aney and Sir Henry Craik was that we should depend more upon voluntary effort for social reform than any efforts through the Legislature. Well, I admit that there is need for voluntary effort on the part of social reformers to introduce reforms into society; but, Sir, there is a limit to what can be done by voluntary effort. Moreover, we are not living in an age when people will be content and will consider that Government have done their duty when they maintain law and order. The days are gone when the Government will be considered to have done their duty if they merely maintain peace in the country. In modern times, in this new age, we expect the Government to do everything that is necessary for the benefit of the community. Therefore, if some reforms cannot be introduced promptly in any community by voluntary efforts, we should expect Government and the Legislature to step in and introduce that reform. Moreover, there are occasions when a Government can act when they find that voluntary effort cannot be effective, and when Government acts, it has been the experience that public opinion is strengthened and more interest is created in the social reform by the very act of the Government. We know that after the Sarda Act was passed, greater interest has been aroused in this country in the cause of social reform and in the cause of putting restraint on child marriage. There is absolutely no doubt about the fact that since the passing of the Sarda Act public opinion has been aroused more and has been made more conscious. Sir, there is the need for this reform. I feel that it is useless to discuss whether the social reform should come first by voluntary effort or it should be made by the State. As a matter of fact, we all know—it is our experience—that to get a Government move without public opinion is a difficult thing. Whether are the Governments that will move without public opinion? In any case, it is not our Government which moves without the backing of the public opinion. Sir Henry Craik said that an irresponsible Government cannot move in this matter without the support of public opinion. We know the weakness of an irresponsible Government. It is for that reason that we do not want the irresponsible Government to continue very long. We want responsible Government. At the same time, I feel that, if the cause of social reform is to progress in this country, there should be co-operation and partnership between the State and the voluntary agencies. The State requires the support of the voluntary agencies in creating public opinion. But without the support

of the legislation and without the support of Government, the efforts of the social reformers will not be successful. I hope the co-operation and the partnership which has been established between the voluntary agencies and the Government in this matter will continue in all other matters.

The Honourable Sir Nripendra Sircar: Sir, I desire to agree and I would not have made another speech but for the fact that certain observations made by some of the speakers rather did injustice to my view about the Muslim feeling in connection with this Bill. I did not insinuate and I do not insinuate that those Honourable Members of the other community who expressed their views and based their views on their religious belief and sentiment were not sincere. I never suggested that. Nor do I suggest that that feeling was not genuine, but Government is not prepared to accept the situation that, generally speaking, the Muslim opinion is against this Bill.

Maulana Shaukat Ali: You will know it soon.

The Honourable Sir Nripendra Sircar: When we know it, we shall admit it. At the present moment, we attach as much value to a speech from Sir Abdul Halim Ghuznavi or from Maulana Shaukat Ali as the one from Mr. Jinnah. We cannot brush him aside. His position both as a lawyer and as the head of a strong organisation is such that we cannot ignore him. (Interruptions by Maulana Shaukat Ali.) If my Honourable friend, Maulana Shaukat, Ali, will not be impatient, I will just read to him the views of Mr. Jinnah, a Muslim lawyer. I am reading from the Assembly Debates of 1929, page 667. After saying that this evil exists, Mr. Jinnah went on to say:

"Now, Sir, if that is a fact, and I take it that it is an established fact, then the next question that we have to consider is this. Are we going to tackle this horrible evil? I ask my friend, Mr. Ghuznavi, to answer this. Are we precluded from dealing with this evil? Sir, I do not pretend to be an Ulema, and I am not one. Nor do I pretend to be an authority on theology. But I do know one thing, that during the last 30 years of my fairly active practice in Bombay, I always understood that marriage law had nothing to do with religion as such; that marriage was a contract according to Muhammadan law, pure and simple. Now, if I am right that marriage is a contract, pure and simple, will Honourable Members point out to me a text of which I am not aware? (*Sir Abdul Halim Ghuznavi did not then take up the challenge.*) I repeat that marriage is a contract according to Muhammadan law. Can that be challenged? If anybody contradicts me on that, he has yet to learn the Muhammadan law. But the question is this, whether there is any text which makes it obligatory on Mussalmans that they should get their daughters married before the age of 14."

This may be all wrong, but *prima facie*. I would rather accept Mr. Jinnah as a Muhammadan lawyer than Sir Abdul Halim Ghuznavi. Then, Sir, if I may read only a few more lines:

"I fully recognise the orthodox opinion. I fully appreciate the orthodox sentiments, the orthodox feelings both of the Mussalmans and of the Hindus. Sir, whether certain practices have any sanction divine or religious or not, usages and customs grow up, and when any social reform is suggested which goes to destroy the usages and the practices to which the people are used and upon which they have looked as semi-religious usages and practices, it is always known all over the world that those people who have got deep sentiments, deep convictions, strong opinions, always resent, and they believe that it is destroying the very root of their social life or religion. Always the social reformer is face to face with this orthodox opinion having behind it this conviction, this sentiment, this feeling which is perfectly understandable and to some extent legitimate. But are we to be dragged down by this section for whom we have respect, whose feeling we appreciate, whose sentiments we regard,—are we to be dragged down and are we to be prevented in the march of progress, in the name of humanity, I ask you? And, Sir, as far as my own constituency is concerned,

[Sir Nripendra Sircar.]

that is, Bombay, I have no mandate from them. This measure has been before this House for a long time, this measure certainly has been discussed in the Press and on the platform; but my constituency has not given me any mandate whatsoever of any kind, and therefore perhaps I am very happy and perhaps I am in a better position than my Honourable friends who probably are afraid that they may have to face their constituencies in the future, and that they may have some trouble, or some of them may have got some mandates. But, Sir, I make bold to say that if my constituency is so backward as to disapprove of a measure like this then I say, the clearest duty on my part would be to say to my constituency, 'You had better ask somebody else to represent you'."

Now, Sir, what has his constituency done? After this challenge, they have returned him again. This matter of being returned again is a very minor matter, but myself not being a man learned in Muslim law and not pretending to know much about it

An Honourable Member: What is the value of your argument?

The Honourable Sir Nripendra Sircar: The value of my argument is this, that it demonstrates that two swallows do not make a summer and that a bigger swallow uttered a different tune. That is all I want to lay before the House. I am not vouching for the correctness of Mr. Jinnah's view. I am not condemning the view of those who hold the contrary opinion. It is not my fault that he is not here today and circumstances do not permit my waiting for him. I am controverting the proposition that all who know anything about the Muslim law are agreed that this is a religious question. It is immaterial whether or not Mr. Jinnah has changed his views. Sir, this was the only point on which I wanted to address the House. But I cannot sit down before expressing my admiration to the fighting qualities of my Honourable friend, Mr. Bajoria. I admired the way in which he kept his temper. It appears to me that the worse the case, the better he fights. Sir, as I said I have already made too many speeches and I do not want to take up any more time of the House.

Haji Chaudhury Muhammad Ismail Khan (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, the Sarda Act has been the adornment of the Statute-book for more than eight years, and like all visionary and impracticable schemes it has succeeded in remaining a dead letter, a palpable redundancy and an utter superfluity. The present Bill, like the Act, which it seeks to strengthen, is a typical example of social reform being started in the wrong end. That child marriage is a curse and an insufferable abuse, no sensible person in this House would like to contest. Any legislation to improve such state of affairs should however necessarily be preceded by an attempt to educate public opinion against this kind of abuse. The Government by sponsoring the present Bill is trying to get a short cut to cheap popularity among a handful of self satisfied Indian reformers. Real and tangible salvation from the abuse of child marriage can never be attained by delivering frenzied speeches in the Legislatures. If the sponsors of the present Bill are really desirous of removing this curse, they should try to propagate among the masses and to bring home to millions of illiterate and unenlightened persons the medical, social and political effects of this practice.

The necessity of introducing the present Bill, I think, is in reality an admission of the futility of such measures. The Sarda Act has never

been successful, because it definitely failed to harmonise with the cultural traditions of India. Even a hundred pious legislations of the type of the present Bill cannot infuse life into a corpse that has never been alive.

My greatest objection to the Bill is as a Muslim. The practice of child-marriage has never to a great extent existed among the Musalmans. We are, therefore, not willing on any account to be shackled by senseless legislations that are of no immediate use to us. Islam is not just a system of moral maxims; Islam is a practical and virile religion that includes life and more, and we are not ready to sacrifice the flexibility of our religious laws for a superficially attractive scheme of reforms that really adds nothing to our cultural heritage. The Muslims of India are not averse to social reform, but they are certainly jealous of unnecessary and uncalled for interference in their religion and culture. The Muslims of India, therefore, never liked the Sarda Act, and they are emphatically averse to this complementary legislation.

Having correctly represented the spontaneous reaction of the Mussalmans against the present Bill, I would like to make a special reference to Section 9, sub-section (1) of the Bill. The Bill by seeking to empower the Courts to dispense with a complaint, is really placing at the disposal of the magistrate a weapon, which, if carelessly used, is capable of causing a great deal of interference with personal liberties of respectable citizens. The professional morality of the police and magistracy in India is far from being on an ideal height of excellence and propriety. The privilege proposed to be granted by the section is thus likely to be used to gratifying petty personal animosities and private grievances. The Bill, if passed, may therefore add considerably to the harassment and frivolous prosecutions to which respectable citizens have already been made vulnerable by the existing laws of the land.

I am, Sir, also disposed to view with considerable suspicion section 12 (1) of the Bill. According to the general principles of jurisprudence the law takes cognizance only of offences and damages actually done and sustained. An injunction is in reality in the nature of an extra-judicial remedy that is granted only in exceptional cases. The authors of the Bill may be thinking on the lines of the popular saying "prevention is better than cure", and may have in their minds made out a good case for the emergent necessity of preventing a heinous social sin. I am, however, disposed to think that no real necessity for the issue of injunctions would exist in such cases.

Section 13 of the Bill, Sir, is also in my opinion very visionary and impracticable. Once a marriage has received religious sanction, the contracting parties will naturally be resentful of any interference with its fulfilment on the part of law. The section, if put seriously into force, will, I am sure, cause a great deal of bitterness and misery among the less enlightened classes of the country, who will naturally remain anxious to defeat the provisions of the law for the sake of gratifying their private conscience. The section would thus intensify the conflict between the conscience and the sense of civic duty in an average citizen that can hardly conduce to the development of respect for law and good government.

To sum up my objection to the Bill, Sir, I would emphatically declare that the present Bill is an outrage inasmuch as it seeks to strengthen and intensify the effects of an Act, about the outrageousness of which now

[Haji Chaudhury Muhammad Ismail Khan.]

no doubt is left. The Bill is visionary and retrograde as a whole and is also impracticable and arbitrary in parts. I am, therefore, confident that the saner elements of the House will unanimously vindicate their sanity by throwing it out; a fate that it richly deserves.

Dr. Sir Ziauddin Ahmad: Sir, the Bill before the House reminds me of a certain incident. A certain person was ill and a large number of people came to see him. One person suggested that he should be given some quinine, others suggested other bitter medicines. A certain person among the crowd suggested that the patient should have *garam garam halwa* (hot pudding). The patient immediately asked his relatives to listen to what the person suggested as medicine, that is *garam garam halwa*. He did not say anything about the other prescriptions suggested by other persons. He remembered only one prescription, that is *garam garam halwa* because it suited his taste. The same is the position with the Honourable the Leader of the House, who, I find, unfortunately is not in the House at present. The Honourable the Leader of the House remembered only one thing and that is the speech of Mr. Jinnah. He ignored the agitations that happened in the country among the Muslim community particularly against the Sarda Act. If the Honourable the Leader of the House wanted to quote the opinions of the leaders of the country, he should also have quoted the agitation that followed the passing of the Sarda Act. The agitation was so widespread in the whole country amongst the Muslims that the Sarda Act was deliberately evaded and it was treated as a dead letter. The Honourable the Home Member said that we should follow public opinion. I have just now got a paper handed to me from behind which reads: "The volume of public opinion in this country is that the British should go out of India". Is the Government prepared to agree to this? I, therefore, submit that to take a stray statement of an individual and say that you are following public opinion is not really logic. We should base our arguments on the circumstances of the case and not upon these ideas.

One complaint which I have against this Government is that when they really saw that this social evil was rampant to a great extent, then they ought to have come forward with a Government measure to eradicate this evil just as they have done in the case of *Sati*. The Government should have boldly come forward with a Government Bill and they ought not to have opened fire by putting gun on the shoulders of my Honourable friend, Mr. B. Das. They ought to have introduced a measure themselves and taken the responsibility for it upon themselves. What would have been the effect? Had they formed a Select Committee they would have selected Members from each Party according to the convention of Select Committees and not allowed the proposer to select his own men.

Mr. B. Das: Sir, I will correct the Honourable Member. I chose Sir Abdul Halim Ghuznavi but he did not attend the Committee.

Dr. Sir Ziauddin Ahmad: You should have spoken to the Leader of the Party. The difference between Select Committees between Government Bills and private Bills is that in the case of private individuals he goes to his own friends and Mr. Das went to Mr. Ghuznavi and he did not ask the Party to nominate a member as Government do. So the Select Committee becomes one-sided. The Select Committees on Government Bills represent all Party opinions.

The Honourable Sir Nripendra Sircar: Sir, that statement of fact is wholly wrong. Whether a Select Committee is on the Bill of a private Member or of Government, the rule is that each Group is asked to nominate a number of persons. If it had been a Government Bill we would have approached the Leader of the Opposition and he would have put in whomsoever he liked from his Group. There is no difference in working between a private Bill and a public Bill, so far as a Select Committee is concerned.

Dr. Sir Ziauddin Ahmad: There is an enormous difference. In the case of Government Bills they would not approach individual Members and would take such number as from different Parties as is fixed by convention. But we find that that convention has not been observed in the case of private Bills, as regards the number of men to be taken from any Party.

The Honourable Sir Nripendra Sircar: As a statement of fact that is wrong.

Dr. Sir Ziauddin Ahmad: I will challenge the Honourable Member and I will give the particulars later on.

The Honourable Sir Nripendra Sircar: Then I will take up the challenge later on.

Dr. Sir Ziauddin Ahmad: Had it been a Government Bill they would have asked the Leader of the Party to nominate a person

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): Sir, I submit that the Honourable Member is repeating the same words over and over again and that is against the Standing Orders.

Dr. Sir Ziauddin Ahmad: My submission is that in that case the Select Committee would have been different. That is the first point that I should like to make.

The second thing is that this is a very unusual favour which they are showing to a private Member's Bill. First, they gave one official day, then they gave it a non-official day, and then they give

The Honourable Sir Nripendra Sircar: On a point of information, what about the Muslim Bills?

Dr. Sir Ziauddin Ahmad: I am not yielding. Then they said that it will be taken up on Monday, Tuesday and Wednesday until the whole thing is finished. This is a very peculiar kind of favour which has been shown to this Bill.

An Honourable Member: What about the Durgah Khwaja Saheb Bill?

Dr. Sir Ziauddin Ahmad: With regard to that Bill I have been imploring since the beginning of the Session that it should be moved on an official day but I have to wait for a non-official day, unlike the specially favoured Mr. Das. Government ought to have come forward boldly if they were convinced that social reform of this kind is needed, and they ought not to have made it a personal question in the case of a private Bill. That is my first contention.

[Dr. Sir Ziauddin Ahmad.]

The second point is that as far as Muslims are concerned, they have not in fact got early marriages, but at the same time they consider that this Bill is an interference with their *Shariat* and they would like to be left alone. I do not mind what the Hindus pass for themselves but the Muslims surely have a right to be consulted before any legislation of this kind is undertaken.

Sardar Sant Singh: Sir, on a point of order, when our Muslim friends are Members of this House and this Bill is being discussed here, are they not being consulted?

Dr. Sir Ziauddin Ahmad: If a Bill affects all communities and not one community alone, it is very desirable that every shade of opinion should be consulted before it is passed into law. In this case I think the Leader of the House has got in his file an enormous number of resolutions, speeches and letters protesting against the Sarda Act when it was passed; and it was, therefore, their duty to consult Muslim opinion on this Bill. That is the difference between a Government Bill and a private Bill. In the case of a Government Bill they would have consulted Muslim public opinion as well, but in the case of a private Bill they leave it alone because it is the responsibility of a private Member. I know this will be very unpopular among the Muslims and the former agitation which practically had subsided will now be again revived. It was unwise on the part of Government to create excitement among the Muslims which was uncalled for and unjustifiable. Sir, I oppose the motion.

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

Mr. M. Ghiasuddin (Punjab: Landholders): Sir, the path of a reformer is not an easy one in any country. Specially in this country of ours which is overridden by past traditions, however antiquated and out of date they may be, the path of the reformer is all the more difficult. Therefore I have much pleasure in congratulating my Honourable friend, Mr. B. Das, who braved all kinds of opposition in piloting this Bill. I am pleased to see that the Bill has been very well received in this House and has been supported by an overwhelming majority of elected Members. I am sure the name of Mr. B. Das will go down in history as one of the big reformers who championed the cause of the down-trodden women of India.

Sir, a myth is being created in this House about Muslim public opinion. I do not think Muslim opinion can be fully known until a referendum has been taken. But from the opinions I will, with your permission, mention a few. Among the Muslim Judges of the High Court who favoured this Bill were Mr. Justice Din Muhammad, Mr. Justice Abdur Rasheed and Mr. Justice Agha Haider of my own High Court. From other High Courts Mr. Justice K. Noor. I am sure these gentlemen, apart from knowing Muslim law which as judges they have to administer, are as good Mussalmans as any Honourable Member here. As regards non-official Muslim opinion I may mention a few names. General Sir Omar Hyat Khan who was an elected Member of the Council of State from a purely Muslim constituency, and whose family still enjoys an immense prestige and popularity in the Western Punjab, Sir Abdul Qadir, Lady Abdul Qadir, and among women I may be permitted to mention Begum Shah Niwaz.

Some Honourable Members may very well go on creating the myth that Muslims are against this Bill, but the fact is that there are many Muslims on our side as well.

Mr. President, this is not the first time that the path of progress has been opposed in the name of religion. If I may be permitted to mention the Turkish History, there was a short while ago a good and progressive Sultan, who ruled that country in the middle of the last century. I forget his name, I think it was Sultan Salim. When he saw other powers grabbing his territory and his armies could not stand against the onslaughts of the European powers, he said, "let me re-organise my army". He requisitioned the services of the famous soldier, Von Moltke. He gave his army European uniforms, used European tactics, and these Maulanas and Maulvis opposed him. They said he was a *Kafir* because he was adopting European tactics, in the name of "Islam in danger" an army was raised to oppose Sultan Salim, there was a civil war in Turkey between the progressive armies of Sultan Salim and those of the reactionary Maulanas and Maulvis. Fortunately for Turkey at the time the Sultan's army won, but in the meanwhile an irreparable damage had been done to the Ottoman Empire and a large part of the Balkhans was snatched away during that civil war. The same thing is being repeated now under our eyes in the name of religion in danger. Mr. President, there are other things in which Islam is in danger. For instance, we are not allowed to take interest in our religion. I believe a few years ago when the Reserve Bank Bill was brought before this House, no Muslim Member got up and said because interest is not permitted in Islam no Muslim should be a shareholder of the Bank and all the Muslim employees of the Reserve Bank should be dismissed.

An Honourable Member: Is the Member in order?

Mr. M. Ghiasuddin: Before I sit down I would like to give a word of advice to Muslim Members who are going to support this Bill. If they are afraid that Muslim public opinion will be excited against them, as I am sure it will be, they should not support this Bill. But if they care for their conscience more than they care for their seats, they should support it. I hope they will be able to convince their electorate as my leader, Mr. Jinnah, was able to convince his electorate that their cause is a just one. Sir, we see the sorry spectacle of girl brides being pushed into marriages, which are harmful to them.

Maulana Shaukat Ali: How old were you when you were married?

Mr. M. Ghiasuddin: I have lived in this country and I know the conditions among Muslims. It is no use shutting our eyes to facts, saying that this evil does not exist among Muslims. If we see the health of our womenfolk gone wrong, if every day we see our young girls given as brides how can we remain silent and be a party to that. Sadi, a great poet of Shiraz, said:

Agar binam keh nábina-o-cháh ast

Agar khámosh benashnam gundáh ast

"If I see a blind man heading towards a well, to remain silent is a sin".

[Mr. M. Ghiasuddin.]

So, when we see everyday our women in India are pushed into a well and if, in the circumstances, we remain silent, it is a sin. So I will try to convince my constituency, but I do not care, I have my conscience, and I am in duty bound to support the Bill.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Mr. President, lest my attitude should be misjudged I propose to start by offering my sincere congratulations—I do not know to whom, either to Mr. B. Das who initiated the Bill and piloted it up to a certain stage, or to the Leader of the House who has adopted the measure as his child.

The Honourable Sir Nripendra Sircar: Offer your blessings jointly and severally.

Syed Ghulam Bhik Nairang: As the Leader of the House proposes to have joint blessings I offer joint blessings to both. I have had occasions to speak before now during the several stages through which this Bill has passed, and I have made it clear that as far as the application of this law to non-Mussalmans is concerned, I have no objection whatsoever to its being passed, and that any remarks that I offered against the measure were from the Muslim point of view. So, once again when the Bill is being considered in its final stage of third reading I must make it clear that that remains our attitude still. Lest we should be misunderstood as inclined to obstruct this measure wholesale, it should be understood, Sir, that what we did yesterday was only a sort of protest against what we took to be an attempt to gag our speakers. The Honourable Members, who were not allowed to speak, would not have spoken for more than a few minutes each, and their speeches would have been finished within a reasonable time. But they were not allowed to speak and there was a tyrannical insistence on the question being put by certain Parties who knew that they were in a majority and wanted to force their decision on the rest of the House.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member knows that the clause was accepted by the House. Therefore he cannot cast any reflection on the verdict of the House.

Syed Ghulam Bhik Nairang: Sir, I bow, perhaps I am not properly understood. I do not mean to cast any reflection on the decision of the House. I simply wanted to explain that division after division was called for by certain Members of this House including myself only by way of protest against the attempt to shut our mouths. That is the only thing. Of course, I am bound by the decision of the House, I have no objection to the decision as a decision of the House. Anyhow, now that the Bill

4 P.M. is being finally considered in the third reading stage, I have to offer only a few remarks. I am glad that the Honourable the Home Member has expressed himself as to the circumstances under which Government would help private Bills. I may, however, be allowed to say that our experience so far about Muslim Bills has been very different from the experience we have had of certain Bills concerning the other communities. The present Bill is by no means the first Bill which has been most specially favoured by Government by allotting to it as many as six days, although, of course fortunately, we are going to finish it in two days

Mr. N. M. Joshi: It applies to all communities.

Honourable Members: What about the Durgah Khwaja Saheb Bill?

Syed Ghulam Bhik Nairang: I have heard this question repeated *ad nauseam*—What about the Durgah Khwaja Saheb Bill? We know the amount of time taken by that Bill and we know that no special allowance of the kind that has been given to this Bill was given in that case at all. Anyhow the matter is not yet finished and we are shortly going to put the impartiality of Government to the test; we have got certain things and we will approach the Government with a request to give us special concessions in the matter of our own Bills and we shall then know the good faith of the Government . . .

An Honourable Member: What Bill?

Another Honourable Member: That does not apply to all communities!

Syed Ghulam Bhik Nairang: About the end of the last Simla Session

Mr. President (The Honourable Sir Abdur Rahim): I think the Honourable Member really must address himself to the motion before the House.

Syed Ghulam Bhik Nairang: Sir, the Honourable the Leader of the House has said that as regards the Muslim view about this law, he has evidence that it is not the opinion of the overwhelming majority of the Muslims that is opposed to the Sarda Act and any law enacted to amend or supplement the deficiencies of that Act. Like the great advocate that he is, he quoted the speech of Mr. Jinnah made in connection with the Sarda Act when it was originally under discussion in this House, in 1928 or 1929. Only today we had the instance of Mr. B. Das, the sponsor of the present Bill, confessing that he is wiser today than he was on the former occasion about which his speech was read out by Mr. Bajoria. If Mr. B. Das is wiser today, although we cannot say with certainty—as Mr. Jinnah is not at the moment in the House—yet possibly, Mr. Jinnah may also be wiser today. Anyhow the speech he made on that occasion really let the cat out of the bag, although really I do not consider it fair to discuss his speech either for the position or against the position during his absence when he is not here to offer any explanation which he may have to offer on the point. That speech clearly indicates that he felt that he was really not voicing the opinion of the constituency and therefore he said “if my constituency is so backward as to ask me to do this, I will tell them that they had better elect somebody else”. After concluding that part of the speech our learned friend, the Honourable the Leader of the House, like a lawyer again, said “His later re-election showed that the constituency was of the same mind; otherwise he would not have been returned”. Well, Sir, we know the value of such an argument. Really nobody thought of the Sarda Act at the time of the last election of Mr. Jinnah to this House. If I am not mistaken, Mr. Jinnah was not a Member of the last Assembly and one might hazard a guess as to the reason why he was not returned to it; but I think it would be equally unfair to consider his not being a Member of the last Assembly as due to his conduct with regard to the Sarda Act and to consider his return to the present Assembly as due to the concurrence of his constituency with him about the Sarda Act. So the position remains, as has been pointed out so many times in connection with

[Syed Ghulam Bhik Nairang.]

the present Bill, that the Muslim community throughout India showed unmistakably that it was opposed to the Sarda Act and it was for that reason and also for the reason that the Sanatanists were also opposed tooth and nail to the Sarda Act that it remained confessedly a dead letter throughout. Now, of course, it is sought to put life into it. As I have said already, as far as the non-Muslims are concerned, I have no objection: let life be put into it. Those who consider it in any way injurious to their interests will take such steps as they like to protect themselves against the effect of this Act. The Muslims undoubtedly think that this law goes against the grain of Muslim law: and they will also take proper steps to protect themselves against the effects of this Act. I need not . . .

Mr. M. Asaf Ali (Delhi: General): Muslim law, did you say, or Muslim religion?

Syed Ghulam Bhik Nairang: I think my Honourable friend knows that Muslim law and Muslim religion are one: that there is not much difference between the two expressions when used by a Muslim—*Shara* to him is religion and religion to him is *Shara*. Now, I need not touch upon the very irrelevant matter introduced by Mr. Ghiasuddin in the course of his speech. If such an admitted fact is to him a myth, I mean to say, if the great unrest created in the Muslim community by the enactment of the Sarda Act is to him a myth, then I do not know what will be a fact to him. He can cite the instance of Sultan Salim and this and that; and even that not correctly. But we do not know what the actual facts behind the alleged agitation against the army re-organisation attempted by Sultan Salim were: what vested interests might have been opposed to that re-organisation, how those vested interests may have set up a religious controversy about that re-organisation—all those facts really are more incompletely and imperfectly known to us, and it is not at all fair to introduce such irrelevant matter in a debate like this. The undoubted facts, so far as the Muslim community in India and their attitude towards the Sarda Act are concerned, certainly show that the Muslim community has never accepted that Act up to the present day. The vast overwhelming majority of the Muslim community, in fact the entire community with the exception of a few men of modern education like Mr. Ghiasuddin who feel too enlightened to be bound by the opinion of the majority of the Muslims or by their feelings or by their sentiments or by the verdict of the *Ulema* and who are unwilling to accept any of these things—with the exception of these few people of modern education, every Muslim in India certainly resents the introduction of such laws and considers it an interference with his religion. With these remarks, I repeat my congratulations to Mr. B. Das and to the Honourable the Leader of the House, the two joint fathers of this Bill.

Mr. N. V. Gadgil: Sir, I have very great pleasure in associating myself with the words of congratulation that my Honourable friend, Mr. B. Das, has received in the course of the discussion on the third reading. After the heat to which this House has been a witness during the last two hours and a half, I do not propose to say anything which will directly or indirectly cause any flutter in the reactionary dovecots on my left. The Honourable the Leader of the House was very pointed enough in reading very relevant passages from the speech of Mr. Jinnah, the Leader of the

Independent Party. I only want to read a small passage with respect to Mr. Jinnah's idea of public opinion and there I will leave the point:

"Because, after all you must remember that public opinion is not so fully developed in this country and if we are going to allow ourselves to be influenced by the public opinion that can be created in the name of religion when we know that religion has nothing whatever to do with the matter—I think we must have the courage to say: 'No, we are not going to be frightened by that'....."

and I am glad to see that at least there is one faithful follower of Mr. Jinnah who has taken a bold stand in today's discussion. If the courageous lead of Mr. Jinnah is not enough to convince my old and respected friend the Maulana, I will give him a bit of Turkish history. I beg to tell him that from the year 1924 up to the month of October, 1926, the Turkish Parliament passed 21 pieces of legislation and the result on Nationalist Turkey is very picturesquely described by a French journalist:

"The Turkish Nationalists were satisfied and welcomed the disappearance of yet another fetter as they considered it to be, which the religion and the philosophic and legal concepts of the Arabs had fastened for so many centuries, not only on their souls but on the daily and domestic life of the Turkish people. Laicization of law and justice have caused religion to recede from the halls of human conflict and ascend into the stronghold of conscience to dwell there in much greater dignity and security than when its Ministers pretended to rule earthly interests as well as moral aspirations."

We have only to compare what were the results of the secularisation of law and justice in Turkey, to find where they are today in the march of progress and where are our friends, the Maulanas and Pandits in India. You will ask me what this social reform has to do with political progress. I shall again quote my friend, Mr. Jinnah, from the same speech:

"We are looking forward to a great India and a great nation. This is after all a small move It is only the beginning. If you take your courage in your hands and if Government do their duty to help us in the onward march of progress to secure the welfare of the people of India, I say, then, India will not have to ask for self-government. It will come to us."

But the only difficulty is our Maulanas and Pandits.

Now, Sir, I will refer to the very fine speech delivered by my Honourable and esteemed friend, Mr. Aney. I am glad to know that his attitude, this time, is considerably better than before and kindlier. I know there was a time when he objected to legislation interfering in so-called religious matters on the ground that those who sit here to legislate are not like the old *Rishis* and *Munis* and, therefore, they have no right to legislate. In my humble opinion, and I am not exaggerating, there does not exist in India any man who represents Sanatan Dharma better than my friend, Mr. Aney. I was very particular in asking, and in fact successful in exacting the word 'blessing' from his holy lips. When this Bill goes out, I have not the slightest doubt that in my province which consists of 21 districts and two crores of people, it will be hailed with joy. I am alive to the warning which he has given and the duty which he has cast on social reformers, to educate public opinion in which they lamentably failed after the passing of the Sarda Act in the year 1929. I want to tell him very humbly that we had other pressing problems in the year 1930 and from 1930 to June, 1934, most of us were behind prison walls, and now that the Congress has returned from the wilderness and is governing seven provinces and when it has given evidence that it is tackling social problems such as Temple Entry and Prohibition and many others in several provinces, I have not the slightest doubt that when the Bill becomes an Act, it will be greatly advertised. I think there will be a

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regular programme by which even the farthest village will know the latest amendments to the Sarda Act. I feel that like an honest and lawful citizen my friend, Mr. Bajoria, will never offer civil disobedience to the new Act. I am sure he will never do anything of the sort and to those who believe in constitutional methods I will say this. It is one of the most glorious principles observed in English Parliamentary life that whatever may be the opposition to a Bill, once it is on the Statute-book every one looks upon it as an accomplished fact and considers it his duty to implement the Act to the best of his ability.

Babu Baijnath Bajoria: Have you followed that principle yourself? You are more a law breaker than a law maker.

Mr. N. V. Gadgil: I assure my friend, Mr. Bajoria, that this law shall not be broken in the case of my daughters or my sons. Therefore, I appeal to Members that they have a duty to guide public opinion and not merely to obey and go under it. I know of the ancient doctrine that a representative should always say what his constituency wants him to say. At the same time, he has a double duty to perform and, according to the great dictum laid down by Burke, he has to represent but at the same time he cannot forget his conscience. He cannot forget his individuality and if this aspect of one's representative character is duly appreciated, I cannot congratulate my friend, Mr. Ghiasuddin, too much. In my eyes he has risen by inches today and I have every hope that the spirit with which he has spoken really represents the spirit of the rising generation among the Muslims. (Interruption by Maulana Shaukat Ali.) I respect everything that the Maulana Sahib says but if facts cannot convince him that this early marriage is an evil, then I cannot convince him. At least I am unable to do it today. Therefore, leaving aside all these heated arguments I do appeal to the Members to realise that we have reached another milestone in the progress of social legislation and I do hope that when this Bill becomes an Act, it will carry with it not only the co-operation of those who have supported it but also of those who have opposed it. Sir, I support the Bill.

Dr. F. X. DeSouza (Nominated Non-Official): Mr. President, as representing the Indian Christian community, I feel I should be failing in my duty if I did not join my humble voice to the chorus of approbation with which my Honourable friend, Mr. B. Das's Bill is passing through this House. My friend, Mian Ghiasuddin, pointed out that Mr. B. Das has inscribed his name on the scroll of fame as one of the successful social legislators in the history of this Parliament; and when the history of the parliament under the Montagu-Chelmsford reforms, which will soon come to an end, comes to be written, the names of Harbilas Sarda, Dr. Govind Deshmukh and Bhubananada Das will be mentioned there as India's great social legislators. Sir, the community to which I belong adopted many years ago its standards and customs to the religion which we professed. Sir, it is a matter of congratulation that in spite of the religious anathema which my friends, Mr. Baijnath Bajoria and Sir Abdul Halim Ghuznavi, have levelled at the reforms, the great majority of this Honourable House is in favour of this Bill. Sir, I feel it is not only Mr. B. Das who deserves congratulations. So are the Government, for it is they who have rendered the passage of this Bill through this House more easy than it has been before. The history

of this legislation illustrates the difficulty of legislation by private Members of the Legislature. Honourable Members are aware that when the Sarda Bill was passed into an Act in 1929, with the help of the Government of India, agitators outside created a great deal of discontent and disaffection, and it is credibly stated that the non-co-operation movement in the North-West Frontier caught on there mainly owing to the agitation against the Sarda Act. Be that as it may, the fact that a private Member has come forward to pilot this Bill and that the Government of India have given him all their help and all the resources at their disposal is a matter of great congratulation in connection with social legislation in this country. Sir, in this connection it struck me very much that Lord Lothian in addressing the House of Lords said that the main reason why he looked forward to the advent of Swaraj in this country and to the Federal Government being established at the Centre was that the establishment of responsible Government at the Centre would render possible the passing of social legislation, which at present is impossible for an alien Government.

Sir, Honourable Members may not be aware that the age of matrimonial consent which this Bill is enacting is far in advance of the ages of matrimonial consent even in European and other advanced countries. Honourable Members may not be aware that under the Canon Law—that is to say under the law of the Roman Catholic Church by which I am bound—the age of matrimonial consent is twelve years for a girl and fourteen years for a boy. Shall I then oppose this Bill because it fixes the age of eighteen for a boy and fourteen for a girl?

An Honourable Member: It is for you to decide.

Dr. F. X. DeSouza: Certainly not. Sir, the law in England as late as the year 1910 for the age of matrimonial consent I believe was only twelve years for a girl and for a boy fourteen years, following the Canon Law, and it was only later that the law of the age of matrimonial consent for a girl was raised to fourteen and for a boy to about sixteen. Does it follow, because the law was there, that the custom in the country has not changed, and that marriages take place for girls of twelve and boys of fourteen? No. There, Sir, with progress and enlightenment and education, the custom has changed and the law remains, but the law now has been altered. The same thing has been done in this country. Sir, a great poet said: "The old order changeth, giving place to new, and God fulfills himself in many ways". Sir, it is in that light that I look at this Bill. The old order has changed and will change and this legislation is, in my opinion, the fulfilment of God's will.

Several Honourable Members: The question be now put.

Babu Baijnath Bajoria: Sir, the third edition, as my Honourable friend, Sir Abdul Halim Ghuznavi, has rightly put it, of the Sarda Act is going to be placed on the Statute-book. Sir, we on this side of the House have already stated, in as many words as we could and in as few words in several other cases, that we were not in favour of this Bill, and also that we were not in favour of the original Act, the Sarda Act. Sir, I am glad that my Honourable friend, the Home Member, admitted in his speech today that the original Sarda Act has been a failure. (*An Honourable Member:* "Why"? Well, I ask you and the other Members.

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of this House who have been so enthusiastic, exuberant and jubilant about the passing of this measure—why has it failed? It has failed simply because it has not aroused the public sympathy and commanded the public support and the public will or the public desire for such reforms: and I can say without any fear of contradiction that even the second and the third editions and even a one-hundredth edition will not be effective unless and until you enlist public sympathy for such reforms. You will see, Sir, that the greatest blunder was made when the original Sarda Act was placed on the Statute-book. The second blunder was made, and the third is now going to be made. Sir, it is better that we must stop making these blunders on the floor of this House. We must look somewhere else so that there may be success; by legislation we cannot have success in measures of social reform. We must seek somewhere else where we can have better success. (*An Honourable Member*: "You better have Adam and Eve marriages".) As I said yesterday, we must work outside this House, in the country; we must educate the masses, we must let them see that what they are doing is wrong; let them feel that what they are doing is wrong, let them also feel that young marriages of girls of five, seven, nine and ten years and of boys of ten or twelve years are never enjoined by the *Shastras* nor by the law of the land. I will be there with them. I will be one of the reformers and work with them hand in hand and will try to preach this doctrine. (Interruptions.) You are going to have the Bill and the Act, so let me have my say. Sir, I will say again that we must have public opinion behind us and we must have the public sanction behind us. Then and then alone we can achieve something. I would say that the time, energy, and money which have been spent over this measure ever since it was introduced have all been lost. If this money had been devoted for preaching and for propaganda work, more widows would have been saved. I mean there would have been a lesser number of widows than by the mere passing of a formal law like this. I need not dilate on this point any longer.

What happened after the original Sarda Act was passed? I admit that the reformers were doing some good work before the Act was passed. In their own communities, they were trying to persuade the people to raise the level of the ages of the contracting parties. But when they became fortified by this Act, they began to sleep. They felt as if they had done their task and the Sarda Act will now do the rest for them. But they were soon disillusioned and that very disillusionment is again in store for them. What has been the fate of our friend, Diwan Bahadur Harbilas Sarda, the author of this Act? He was a Member of this House so far as my knowledge goes, ever since the Act of 1919 was passed. He had considered this seat as if it was a Jagirdari for him, but what has happened to him? Whether his popularity was increased or decreased was amply proved by the last election. He was beaten hollow by a novice and a young man, I refer to my Honourable friend, Rai Bahadur Bhagechand Soni. (Interruptions.) I am glad that he is my comrade: you are also my comrade: everybody is my comrade and colleague. What about Mr. B. Das? He was then in the orthodox camp, as I proved to the House this morning. (*Mr. B. Das*: "I was never an orthodox.") If the Honourable Member will refer to page 1055 of the Assembly Debates, Vol. V of 1929, he will see that he voted that the age should be 12 instead of 14.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better address the Chair.

Babu Baijnath Bajoria: He did not make a speech at that time: he only voted. There were other friends also who now adorn the Congress Benches and who also supported 12 years. Pandit Nilakantha Das and Mr. Lahiri Chaudhury also voted for the age of 12.

Mr. N. M. Joshi: They have all lived and learnt.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must not be interrupted like this.

Babu Baijnath Bajoria: And I have to reply to these interruptions.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better address the Chair and take no notice of the interruptions.

Babu Baijnath Bajoria: Sir, I would like to read, with your permission, a few lines from the speech of Pandit Madan Mohan Malaviya when the third reading of the original Sarda Act was passed.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must not discuss the Sarda Act now. That Act is not before the House. The Honourable Member must remember that this is the third reading of the amending Bill.

Babu Baijnath Bajoria: Sir, Mr. Jinnah's speech that was delivered on that occasion has already been quoted by the Honourable the Leader of the House and also by my Honourable friend, Mr. Gadgil.

Mr. President (The Honourable Sir Abdur Rahim): If it has any bearing on the Bill and the motion before the House, then the Honourable Member can read it.

Babu Baijnath Bajoria: What I am going to say is this that we have also to consider the masses who are, after all, to be affected by this legislation. They were also affected by the main Act. That is my grievance and we have to see what Pandit Madan Mohan Malaviya said about it. He said:

"I do not blame the Members on the Government Benches for voting for the Bill merely under the command of the Honourable the Home Member."

And, I may add here, the Honourable the Law Member.

The Honourable Sir Nripendra Sircar: No, Sir. My Party were free to vote as they liked. No whips were issued.

Babu Baijnath Bajoria: I do not know. To continue the quotation:

"I believe that, if not all, most of them have got convictions that way. Nor do I blame Members on this side of the House who have supported the Bill, or accuse them of anything but the best and the most disinterested of motives in adopting the attitude that they have adopted. But I do deplore that, in dealing with a measure of this delicacy, in dealing with a measure which very seriously affects the tenderest interests of a large section of the people—that in dealing with such a measure the House have not shown greater considerateness towards those who are to be affected by the Bill There is therefore no reason to say that the passing of this measure with a lower age will be a disaster to the cause of social reform."

I do not like to read very copiously because I am very much afraid of you, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not be afraid of the Chair if he confines himself to the motion before the House.

Babu Baijnath Bajoria: Pandit Malaviya's speech continues:

"I have only urged from the beginning that in a matter of this delicacy, which touches the most vital interests of the community, which touches the humblest of our people, we should proceed cautiously, we should hasten slowly."

—I repeat that word, "cautiously"—

"We should recognise the need of carrying the people with us. We are living in an age of democracy. We are anxious to have democratic institutions. This is a democratic institution."

I say, Sir, that this Bill and the original Act are autocratic Acts, they are autocratic laws, quite unfit to be passed by a democratic institution such as this House claims to be. We disregard the wishes of the people in utter contempt. We disregard the wishes of those who may be affected by a measure of this importance:

"I am as anxious as my friends on either side of the House that these evils should be done away with, but I am anxious that in removing one evil I should not be perpetuating another evil and I feel that the Legislature, in exercising its authority in the matter of social reform, should carry the general consent of the community with it. The way in which this Bill has been rushed through."

I will say, Sir, that the present Bill also has been rushed through.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot go on indefinitely quoting from previous debates.

Babu Baijnath Bajoria: I will finish the quotation with this sentence only:

"I regret to say that in passing this Bill, in the form in which it stands, this House is abusing the power of legislation which it possesses at this moment."

I think, Sir, that will do for me. That is the opinion of a learned and most respected leader of the Hindu community. I do not think even the Congress Members will be able to deny that Pandit Malaviya is a leader of the first water, one of the greatest leaders of the Hindus at the present time.

Now, Sir, I will come to another point. The Honourable the Home Member admitted that marriage is a sacrament, he also admitted that it was considered a sacrament not only among Hindus but amongst the followers of all other religions as well. He went further and said that it was more than a sacrament. That is what he meant when he said it was a contract for a whole life. He said further that the contract must be a fair deal to both the contracting parties. I quite agree. But, Sir, even at the age of 14 or 18, I do not think a young couple can be expected to exercise their discretion in a fair manner.

Mr. N. V. Gadgil: Then raise the age.

Babu Baijnath Bajoria: Amongst the Hindu community a much greater safety has been provided. It is not the contracting parties, it is not the bridegroom or the bride that fixes the marriage, but it is the parents of the bride and the bridegroom that fix the marriage. In their

mature judgment, they have got the well being of the bridegroom and the bride and they want that the couple should lead a happy life. They give due consideration to these factors and then they arrange the marriage. I, therefore, submit that on that point the Honourable the Home Member has no ground to stand upon. He admitted the strong opposition which the Bill has evoked in the country. I am, however, sorry that he still persists in his support to the Bill and in thinking that a great volume of opinion is in favour of the Bill. I strongly question this. When the Sarda Act was passed, lakhs of people were against the measure. Even now many lakhs of people are against that measure. There have been thousands of telegrams and letters from all parts of the country protesting against this measure. I put it to the supporters of the Bill to inform the number of letters or telegrams in favour of the measure. They were not able to give the figures. No reply was forthcoming.

There is another point which I wish to refer. I would not have referred to it, but for the fact that my Honourable friend, Mr. B. Das, referred to it and that is that the Marwari community is in favour of the Bill. I challenge him on the floor of the House to produce evidence to show that the Marwari community is in favour of the measure.

Seth Govind Das (Central Provinces Hindi Divisions: Non-Muhammadan): I challenge Mr. Bajoria on the floor of the House—I am also a Marwari—to prove that the Marwari community is not in favour of this measure. I can tell him that an overwhelming majority of the Marwari community is in favour of the Bill.

Babu Baijnath Bajoria: I am prepared to accept his challenge and I lay a bet of one lakh of rupees. I am prepared to deposit this amount with the Government, on condition that if my Honourable friend will also deposit a like amount. . . .

Seth Govind Das: I am not a habitual gambler of the type of my Honourable friend, Babu Baijnath Bajoria.

Babu Baijnath Bajoria: If the amount is too big for him, I am prepared to accept a reduced amount, half a lakh or even quarter of a lakh. . .

Seth Govind Das: It is too small.

Babu Baijnath Bajoria: How much are you prepared to bet. You can ask even Mr. Birla to obtain the money. I did not want to mention his name. Though I am a poor man compared to Mr. Birla, yet I am prepared to bet a lakh of rupees.

Mr. President (The Honourable Sir Abdur Rahim): No gambling can be allowed in the Chamber.

Babu Baijnath Bajoria: This amount may be spent in taking a plebiscite of the Marwari community

An Honourable Member: Including women.

Babu Baijnath Bajoria: Yes, including women. I may tell my Honourable friend this much that I am even prepared to concede this that if 75 per cent. of the Marwari community do not vote against this measure, I am prepared to lose my bet.

Seth Sheodass Daga (Central Provinces and Berar: Landholders): Sir*, since challenges and counter-challenges are being hurled at one another, I may as well state that I am also a Marwari, and as a Marwari I give a challenge to Mr. Bajoria that if he can secure even 40 per cent. votes in his favour I shall donate the whole of my property to the Congress, and if he cannot secure that percentage votes for him, he should donate the whole of his property to the Congress.

Babu Baijnath Bajoria: Against child marriage, the first thing said is that it increases the number of widows, the second is that it leads to suffering of girl wives and thirdly, that it increases infantile mortality. If the House will bear with me I will try to refute all these suggestions.

Mr. President (The Honourable Sir Abdur Rahim): This is not the stage for that sort of discussion. The Honourable Member must confine himself to the principles underlying the clauses of the Bill.

Babu Baijnath Bajoria: I wanted to reply but I will have to submit to what you say. I want to say that if such a law were passed by a Hindu Government, as in the old days, assisted by Pundits and Brahmins learned in the Shastras, if they thought that the condition of the society demanded some reform without affecting the religion, we would not have any reason to grumble. But here in this House we have got cosmopolitan races,—Hindus, Muslims, Christians, Sikhs, Parsis, etc., and this House is not at all competent to legislate on such matters. In social legislation Government should not give their support but here they snatched the Bill from the hands of Mr. B. Das and adopted it as their own. He has been a silent observer throughout the whole debate, because he did not know his case at all and he did not even read his own Bill, I suppose. I will say that this Legislature should have shown greater consideration for the masses who do not

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is repeating the same thing a number of times. The Chair has allowed him considerable latitude but he must not go on repeating indefinitely and wasting the time of the House.

Babu Baijnath Bajoria: I will finish in five minutes, Sir. As regards the actual Bill which is going to be passed today, though I have been treated with respect and have been given a patient hearing, I must say that on the merits of the amendments I have not been treated fairly and squarely. With the numerical strength of the Congress Party and Government they have scorned all that I had to say. Even apart from the question of injunction there were several small amendments which without giving any long rope to evaders would have helped to improve the Bill considerably. I refer to the omission of the words "or otherwise", the suggestion about seven days' notice with regard to injunctions and the provision about deletion of rigorous imprisonment. On these matters even the Congress Nationalist Party joined with me and I am very grateful to

* Translation of the Honourable Member's speech delivered in vernacular.

them for the support which they gave me. I am also thankful to my Muslim friends who have assisted me in opposing this pernicious measure. Time alone will show whether we, who are in a minority today, or the majority are in the right.

Sir, I will refer to one word which was used yesterday by the Leader of the House, who referred to me as a mushroom individual.

The Honourable Sir Nripendra Sircar: No, no: I did not seriously say that.

Babu Baijnath Bajoria: Yes, the Honourable Member did.

Mr. President (The Honourable Sir Abdur Rahim): When the Honourable Member denies it, his statement must be accepted.

Babu Baijnath Bajoria: I admit that I am a mushroom individual but if I had the same power today as the Honourable the Law Member has, the result would have been otherwise. Sir, I congratulate my Honourable friend, Mr. Das, on having got his measure passed without any effort on his part. I also congratulate the Honourable the Law Member on successfully piloting his adopted child and becoming the godfather of the Bill. Lastly, I submit that this Bill should be administered with justice tempered with mercy. Mercy blesses him that gives and him that takes. If they are out for their pound of flesh like Shylock they will have to repent in the end as Shylock did.

I was told that a sum of Rs. 5,000 was promised by a Lahore gentleman to Mr. B. Das and several Members who have supported this measure for a column to be erected in the Assembly. If the Honourable the Home Member has got that money the column may be erected and I will not be ashamed to have my name inscribed there in black letters, as mentioned in that telegram. He may either distribute that money among the Members who have supported the Bill or he can have the column erected. Sir, I cannot congratulate the House on passing this measure and I oppose this motion.

Maulana Shaukat Ali: Sir, I would not have spoken at all, specially after the statement I made on the first day which very clearly gave my own personal opinion and the opinion of the majority of the Muslim Members of this House and an overwhelming majority of Muslims outside in the country. I happen to be in touch with them to a certain extent, and I believe every one in this House and specially my friends on the Congress Benches know that I am in touch with my people. I would not have spoken if the Honourable the Law Member had not made certain remarks which I think it is necessary for me to rebut. We Muslims know that we are backward; we know that we have a good deal of leeway to make. We have a lot of work before us, and we do not want to start any unnecessary agitation either against this Government or against anybody else. And our efforts have been all along to this end that there should be an honourable understanding and peace between all the people in this country so that we may get on with our constructive work.

Now you want to force on us Muslims certain reforms which we do not need. I had said before and do so again that we have no child marriages. If you ask Hindus and Muslims in this House at what age they were married, you will find that the Hindu

5 P.M.

[Maulana Shaukat Ali.]

Members married at an average age of between 5 and 6 years and the Muslims at about 20. (Interruptions.) These people may heckle, but they will not get any change out of me. I do not want to waste the time of the Assembly nor mine; I do not want to create a tearing agitation. We Mussalmans do not suffer from this malady; we have no malaria, therefore do not force down our throats strong doses of quinine. If we need it we are perfectly capable of looking after ourselves; we have got able men at our disposal, we can put our case, we can come to this House, and if we have reasonable grounds I think the whole House will support us. The difficulty is with the Hindus, they have child marriages, widows cannot get married, they have got caste system, but amongst us Muslims there are none of these difficulties. Many of us marry at a fairly early age, but at an age when we reach manhood, and in the same way our girls. Here and there, there may be a few cases of child marriage, but we are fully capable of, and we are willing and we will create a huge agitation in the country to bring our people to their senses. Day before yesterday when this Bill was to come up for discussion a deputation of Muslim ladies motored all the way from Meerut to see me, and I took them to Mr. Jinnah. They said they would have a Ladies Conference along with the Muslim League on the 17th, 18th and 19th in Calcutta, and they would express their opinion, but they would not tolerate any interference with their faith. If my Hindu brothers and sisters want the reform, let them have it, they have our sympathy, but you have no right to force it on us. Mr. Ghiasuddin is perfectly entitled to have his opinion, but I would challenge him—though he will not accept my challenge—tomorrow is Friday, let him come to any mosque with me in Lahore, Bombay, Madras, Delhi, Jamey Musjid, Fatehpuri or Calcutta, Malabar, anywhere, let him put his case for reform, and I and other Muslims will put our case before our people and he will know how he will stand discredited. After all you have got a Government, and the Government has got to take public opinion into consideration. We do not want to pick up a quarrel with this Government, I do not want to play into anybody's hand and get up an agitation of Muslims against Government. But when they interfere with our faith I am afraid it will not have a good effect on the country and they will condemn severely. That I can tell you. You can do what you like, we are in a minority, we are only 14 or 16. Between the Government ranks and the Congress, there is an unholy alliance. I hope this marriage will last, I hope there will be no divorce soon. I hope there will not be any quarrel over the children. But, I do not know how long it will last, but it will be interesting to watch.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): As long as the alliance between you and Mr. Bajoria.

Maulana Shaukat Ali: I have great affection for my friend, Dr. Deshmukh, we know each other very well, he can say whatever he likes, he is my doctor, and we should not contradict our doctors and our cooks for they can send us away before our time to the other world. Anything from Dr. Deshmukh I will take gracefully. My friends have quoted from Mr. Jinnah. Abuses, cries of communalist, rotter, etc., were hurled against him. The Law Member—I know, Sir, he is an eminent lawyer. He has wonderful powers of advocacy. Many a murderer and robber, knave

and criminal thank Sir N. N. Sircar for saving him from the gallows. Say yes (Law Member nodded no), you do not want to confess, I know very well, and the whole of Bengal would agree with me. He has wonderful advocacy, anything he wants to prove he will prove by juggling with words, all that he can do, and he has a sense of humour, I have a certain affection for him, but when he tries to provoke us—I have no patience with him.

The Honourable Sir Nripendra Sircar: I have never appeared for the defence of a murderer or a robber, but after I retire I should like to have a robber as my client.

Maulana Shaukat Ali: I have no right to challenge your words, you are an eminent lawyer—there are many lawyers who have defended murderers—well I will take your word. He must have defended many a forgers, and company promoters who swallowed shareholders' money. In any case you have got a very bad case, and I am afraid you are provoking us to show that we resent this very strongly. I think we will start our agitation pretty soon because the Muslim League is meeting on the 17th, 18th and 19th. Mr. Jinnah will be presiding and the Muslim mass and public will have their say, and the decision there will be binding on me and on everybody else. You cannot drive us like cattle in matters of faith. Neither Mr. Jinnah nor Maulana Shaukat Ali nor anybody else can. Every Muslim is a law unto himself in regard to his faith, he will be answerable before God.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should address himself to the motion before the House.

Maulana Shaukat Ali: When the Sarda Bill was enacted there was a huge agitation. My brother, Maulana Muhammad Ali, was alive. I was then in Africa, and when I got back I found the whole country was seething with agitation and Government, in the case of Muslims, would not prosecute them. My brother and myself officiated as witnesses in a number of marriages just to violate the law, and no one touched us, because Government realised the justice of our cause. I am perfectly willing to do so again. If you touch me where our faith is concerned, we shall have to fight to the bitter and we will soon be asking the House to exempt Muslims from this whole Act.

Honourable Members: The question be now put.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the question be now put."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill, as amended by the Select Committee, be passed."

The Assembly divided:

AYES—87.

Abdul Hamid, Khan Bahadur Sir.
 Abdul Qaiyum, Mr.
 Abdul Wajid, Maulvi.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aikman, Mr. A.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Ayyar, Mr. N. M.
 Bajpai, Sir Girja Shankar.
 Banerjee, Dr. P. N.
 Bewoor, Mr. G. V.
 Bhagavan Das, Dr.
 Boyle, Mr. J. D.
 Busa, Mr. L. C.
 Chanda, Mr. A. K.
 Chaudhury, Mr. Brojendra Narayan.
 Chunder, Mr. N. C.
 Conran-Smith, Mr. E.
 Craik, The Honourable Sir Henry.
 Dalal, Dr. B. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 DeSouza, Dr. F. X.
 Dow, Mr. H.
 Fazl-i-Ilahi, Khan Sahib Shaikh.
 Gadgil, Mr. N. V.
 Ghiasuddin, Mr. M.
 Gidney, Lieut.-Colonel Sir Henry.
 Gilbert, Mr. L. B.
 Govind Das, Seth.
 Griffiths, Mr. P. J.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Highet, Mr. J. C.
 Hosmani, Mr. S. K.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.

Josh, Mr. N. M.
 Kailash Behari Lal, Babu.
 Kusnaipal Singh, Raja Bahadur.
 Lalchand Navarai, Mr.
 Mackeown, Mr. J. A.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Menon, Mr. P. A.
 Metcalfe, Sir Aubrey.
 Miller, Mr. C. C.
 Misra, Pandit Shambhu Dayal.
 Mody, Sir. H. P.
 Paliwal, Pandit Sri Krishna Dutta.
 Fande, Mr. Badri Dutt.
 Parma Nand, Bhai.
 Raghubir Narayan Singh, Choudhri.
 Rahman, Lieut.-Col. M. A.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. Thirumala.
 Row, Mr. K. Sanjiva.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Scott, Mr. J. Ramsay.
 Sen, Rai Bahadur N. C.
 Sham Lal, Mr.
 Shodass Daga, Seth.
 Sher Muhammad Khan, Captain
 Sardar Sir.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sircar, The Honourable Sir Nripendra.
 Sivaraj, Rao Sahib N.
 Smith, Lieut.-Colonel H. C.
 Spence, Mr. G. H.
 Sri Prakasa, Mr.
 Stewart, The Honourable Sir Thomas.
 Subedar, Mr. Manu.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Varma, Mr. B. B.
 Walker, Mr. G. D.

NOES—16.

Abdul Ghani, Maulvi Muhammad.
 Abdullah, Mr. H. M.
 Azhar Ali, Mr. Muhammad.
 Bajoria, Babu Rajnath.
 Bhagchand Soni, Rai Bahadur Seth.
 Bhutto, Mr. Nabi Baksh Illahi Baksh.
 Essak Sait, Mr. H. A. Sathar H.
 Ghulam Bhik Nairang, Syed.
 Ghuznavi, Sir Abdul Halim.

Ismail Khan, Haji Chaudhury Muham-
 mad.
 Mehr Shah, Nawab Sahibzada Sir Sayad
 Muhammad.
 Rajah, Raja Sir Vasudeva.
 Shaukat Ali, Maulana.
 Siddique Ali Khan, Khan Sahib Nawab.
 Umar Aly Shah, Mr.
 Ziauddin Ahmad, Dr. Sir.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 1st April, 1938.