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THE

LEGISLATIVE ASSEMBLY DEBATES

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Volume I, 1938

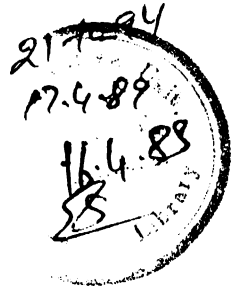
(31st January to 22nd February, 1938)

SEVENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1938



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1938

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A

Legislative Assembly.

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THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

Deputy President :

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MR. M. GHIASUDDIN, M.L.A.

MR. N. M. JOSHI, M.L.A.

MR. L. C. BUSS, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 3rd February, 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.

RESERVATION OF MONEY DEPOSITED IN POSTAL SAVINGS BANK IN THE NAME OF MINORS TILL ATTAINMENT OF MAJORITY.

110. *Mr. Sham Lal: Will the Honourable Member for Railways and Communications be pleased to state:-

- (a) whether it is a fact that several parents invest money in the names of their minor children in Postal Savings Bank Accounts;
- (b) if so, whether Postal authorities keep some part of this money at current rates of Government interest in the accounts of minors in order to ensure them a start in life at their reaching the age of majority without the whole of these sums being paid to their legal guardians in the event of the death of their own parents; and
- (c) if not, whether Government propose to take steps to reserve some money until the minors attain majority?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) and (c). No.

OPENING OF NEW RURAL POST OFFICES IN THE PUNJAB.

111. *Mr. Sham Lal: (a) Will the Honourable Member for Railways and Communications be pleased to state what amount of money Government have allotted according to the new scheme for post offices in rural areas, and how much Government have spent during the year 1936-37?

(b) Have some villages in the Punjab contributed money for opening new post offices there?

(c) Have post offices been opened in some villages which have not contributed anything at all?

(d) What is the rule with regard to the contribution of money for these post offices?

(e) In what cases are the villages required to contribute and in what cases they are not to contribute?

(f) Will Government lay on the table a list of the villages in the Punjab where new post offices have been opened specifying the amount that each village has contributed for the post offices?

The Honourable Sir Thomas Stewart: (a) A sum of Rs. 2,50,000 was provided in the Budget Estimates for the year 1936-37 for the extension of postal facilities in rural as well as in urban areas. A sum of Rs. 1,62,000 was actually spent in providing postal facilities in rural areas during that year.

(b) and (c). Yes.

(d) and (e). Post Offices which are expected to earn sufficient revenue to ensure that the loss, if any, incurred in their working in the beginning will not exceed Rs. 240 per annum and which are ultimately expected to pay their way are opened without any contribution from the public. In all other cases, a non-returnable contribution sufficient to cover the whole of the estimated loss in the working of the office for one year is required to be paid in advance by the individual or the particular section of the public who ask for the opening of the office.

(f) A statement containing the desired information for the year 1936-37 is placed on the table of the House.

List of Villages in the Punjab where Post Offices have been opened during the year 1936-37.

Name of Village.	Amount contributed.		
	Rs.	A.	P.
1. Chak Sher Singh	150	0	0
2. Skhakot	198	0	0
3. Afisabad	20	5	6
4. Chak No. 355 Aminpur	186	0	0
5. Tibba Sultanpur	90	0	0
6. Chak 64/4R Bahadurnagar	114	0	0
7. Petwar	90	0	0
8. Mohugarhwal Doaba	90	0	0
9. Tal	90	0	0
10. Loharka Kalan	137	4	0
11. Chak 27 S. B.	138	0	0
12. Rajewal	138	0	0
13. Hafizabad Chak 124 G. B.	114	0	0
14. Daiwal	174	0	0
15. Chak 130/9L	126	0	0
16. Chhani Tekka Chak 72 G. B.	95	10	0
17. Chak 69/12 L. Kamad 3	210	0	0
18. Chak 88/7R Tanda	90	5	0
19. Kangnah	25	9	0
20. Taragarh Kalan Chak 201 R. B.	65	7	0
21. Chak 174 A/9L	42	5	0
22. Dhob Santika	96	0	0
23. Parial	126	0	0
24. Chak 100A/6AR	58	11	0
25. Sirikot	29	4	0
26. Chak 172/9L	57	7	0
27. Dhok Angra	109	9	0
28. Jui	26	1	0
29. Palahi	46	9	0
30. Kot Ganesh Daswala Chak 27/15L	153	7	0
31. Ladain	57	15	0
32. Gur Fatehpur Chak 19/8BR	91	14	0

List of Villages in the Punjab where Post Offices have been opened during the year 1936-37—contd.

Name of Village.	Amount contributed.		
	Rs.	A.	P.
33. Chak 171/EB	93	6	0
34. Daulatpur	34	3	0
35. Tandaura	46	4	0
36. Ucha	47	0	0
37. Hiro Sharki	44	4	0
38. D. A. V. High School Patti	90	0	0
39. Sutlej Cotton Mills	162	0	0
40. Shewa	Nil.		
41. Gohatti	Nil.		
42. Jaggan Nath	Nil.		
43. Pundar	Nil.		
44. Hasilpur Mandi	Nil.		
45. Dagarnari	Nil.		
46. Jhok Uttara	Nil.		
47. Dhobian	Nil.		
48. Sheikh Chuhar	Nil.		
49. Shakti Ghat	Nil.		
50. Lote	Nil.		
51. Sewah	Nil.		
52. Mallian	Nil.		
53. Chak 4/1 RA	Nil.		
54. Chak Sadu	Nil.		
55. Mudki	Nil.		
56. Painsi	Nil.		
57. Maloya	Nil.		
58. Nadhkhokhar	Nil.		
59. Gangana	Nil.		
60. Nau Rohtak Chak 130 G. B.	Nil.		
61. Pirkot Sidhana	Nil.		
62. Bhanohar	Nil.		
63. Nizampur	Nil.		
64. Sarchar	Nil.		
65. Kot Sayed Mahmud	Nil.		
66. Abbuwal	Nil.		
67. Mangali	Nil.		
68. Valala Kalan	Nil.		
69. Chak Kalal	Nil.		
70. Ghot	Nil.		
71. Jasawar Kheri	Nil.		
72. Mari Buchian	Nil.		
73. Fatehpur Afghanan	Nil.		
74. Manga	Nil.		
75. Khaur	Nil.		
76. Barwal	Nil.		
77. Chak Ganda Singh	Nil.		
78. Samchana	Nil.		
79. Mundlana	Nil.		
80. Raipur Rasulpur	Nil.		
81. Khaisora	Nil.		
82. Kurnali	Nil.		
83. Chak 8/8AR Kot Sardaran	Nil.		
84. Emerson Eye Hospital	Nil.		

Mr. M. Ananthasayanam Ayyangar: Are the Government aware that while some more village post offices were opened in the Madras Presidency, some postal facilities were withdrawn, e.g., by appointing postal agents instead of postmen to deliver articles and asking villagers themselves to go to the post offices five or six miles away to take parcels, etc?

The Honourable Sir Thomas Stewart: I am informed that the practice to which the Honourable Member refers was in existence, but our policy now is to replace these extra-departmental deliverers by full time post-men.

Mr. N. M. Joshi: May I ask what is the principle underlying the Government's policy of asking the villagers to make good the loss incurred under post offices?

The Honourable Sir Thomas Stewart: The principle is this, that the Posts and Telegraphs Department is presumed to be a commercial department, and we must as far as possible avoid a loss on its working.

Mr. N. M. Joshi: May I ask why there should be a loss under the Telegraph Department at all, if the Government are following this policy?

The Honourable Sir Thomas Stewart: I think that the Honourable Member will find that the Indian telegraph system is not alone in working at a loss.

Mr. T. S. Avinashilingam Chettiar: What is the minimum business necessary for a rural post office?

The Honourable Sir Thomas Stewart: The amount of business which will enable the post office to work at a profit or at least at no loss.

Mr. N. M. Joshi: May I ask whether it is the policy of Government to ask only the villagers to make good the losses made in the post office, and not make the people in the cities to make good the losses made in the telegraph offices? My point is that the losses are made on the telegraph offices, and if Government had been following the policy of making the people who use their telegraph offices to make good the losses, there would have been no losses at all.

The Honourable Sir Thomas Stewart: I think the Honourable Member is indulging in argument rather than asking me a question.

Mr. N. M. Joshi: May I ask whether Government are aware that the Post Office is a Government monopoly?

The Honourable Sir Thomas Stewart: Yes.

Mr. N. M. Joshi: If that so

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

Mr. Ram Narayan Singh: May I know whether the Postal Department takes the initiative in opening rural post offices?

The Honourable Sir Thomas Stewart: Yes.

EXAMINATION FOR RECRUITMENT OF POSTAL CLERKS, ETC., IN SIND.

112. **Mr. Lalchand Nayalrai:** (a) Will the Honourable Member for Communications be pleased to state if an examination took place on the 26th September last at various places in Sind for recruitment to the Postal Department in the clerical and other similar services?

(b) Is it a fact that in the press statement of recruitment for the Sind and Baluchistan Circle it was announced that 162 posts had to be filled up, and that a fee of Rs. 10 per candidate had to be charged?

(c) Will the Honourable Member be pleased to state how many candidates applied for being admitted to the examination and how many in fact appeared?

(d) Is it a fact that only 30 were taken up including the departmental candidates instead of 160 as stated in the *Sind Observer* of the 3rd December, 1937? If so, why was only this number employed?

(e) Do Government propose to take up more persons from amongst those who appeared at the examination or hold a supplementary examination for those who have already paid the fees and failed?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) The number of posts announced was 160. The reply to the second part is in the affirmative.

(c) 227 and 154 respectively.

(d) The selection of candidates from among those appearing at the examination is subject to the candidates attaining a qualifying standard. Only 30 candidates reached that standard, but after reduction of the qualifying percentage required for it 17 more qualified. The rest have not qualified and, therefore, cannot be considered for employment.

(e) Government do not propose to employ candidates who failed to qualify at the examination nor to hold a supplementary examination for them. It is open to them to appear again when a fresh examination is held provided they continue to fulfil the prescribed conditions.

Mr. Lalchand Navarai: Is it the rule that only qualified persons would be allowed to the examination, and, if so, why were they allowed when they were not qualified?

The Honourable Sir Thomas Stewart: If I may explain to the Honourable Member, one of the conditions for admission to the examination is that the candidates should possess a certain standard of education: thereafter they sit at the examination; and they have to pass the examination with a certain minimum percentage of marks before they can be selected for the Department.

Mr. Lalchand Navarai: May I know why these men who are on the top of the failed men should be charged Rs. 10 again when a supplementary examination is held?

The Honourable Sir Thomas Stewart: As I explained three days ago, we cannot examine candidates for employment unless we charge a fee in order to cover the expenses of the examination.

Mr. Lalchand Navarai: Will the Honourable Member please consider the question and find out whether Rs. 10 is too much or not?

The Honourable Sir Thomas Stewart: Again three days ago, I admitted that on the information we have at present, Rs. 10 probably is too high, and we shall reduce the fee in future.

Seth Haji Sir Abdoola Haroon: What is the income from these applications?

The Honourable Sir Thomas Stewart: I have not with me complete figures, but the Honourable Member will get some information if he looks up the reply I gave to a similar question in regard to the Madras Presidency three days ago.

PROMOTION OF INDIANS AS STATION SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

113. ***Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways and Communications be pleased to state the number of the Station Superintendents employed on the North Western Railway and how many of them are Indians?

(b) If there are no Indian Station Superintendents, will the Honourable Member be pleased to state the reasons for ignoring Indians for promotion as Station Superintendents?

(c) Is it a fact that there are on the North Western Railway senior Indians as grade VIII Station Masters on Rs. 500 per mensem?

(d) Is it a fact that these senior men have been overlooked for promotion to Station Superintendent's posts? If so, why?

(e) Is it a fact that there is nothing against these men and that they got good confidential reports as well as their names are borne on the Recommendation Rolls for higher appointments? If so, why are Indians overlooked for promotion to the next higher grade as Station Superintendents?

(f) Will the Honourable Member please state how promotions are made to Station Superintendent's posts and by whom? Is there any provision for appeal by the superseded persons? If not, why not?

(g) Is it a fact that some time ago, Indians were overlooked for promotion as grade VIII, Station Masters, and that Europeans and Anglo-Indians were allowed to supersede their senior Indian colleagues? Is it also a fact that as a result of protests some time in 1932 and after and the general desire on the part of the Government of India to do away with racial discrimination in railway service, the Indians were given their rights in the matter of promotion and seniority as grade VIII Station Masters?

(h) Is it a fact that formerly, military and important stations like Quetta were out of bounds for Indian Station Masters but these stations are now manned by Indians?

(i) Do Government propose to hold an enquiry into the charge of supersession of Indians in the matter of promotion as Station Superintendents or put matters right?

The Honourable Sir Thomas Stewart: (a) Three. None of these is an Indian.

(b) Selection for promotion to Station Superintendents' posts is made from Station Masters, grade VIII, who are considered suitable. So far no Indian Station Master, grade VIII, has been sufficiently senior to warrant consideration for such promotion.

(c) There is only one Indian Station Master, grade VIII, on the North Western Railway.

(d) and (e). The reply to the first part of part (d) is in the negative. The second part of part (d) and part (e) do not arise in view of the reply to part (b) above.

(f) As regards the first part, the Chief Operating Superintendent and the Chief Commercial Manager make the selection after considering the confidential reports and the capabilities of the senior Station Masters, grade VIII. As regards the second part, the reply is in the affirmative. The last part does not arise.

(g) The reply to the first part is in the negative. As regards the second part, any racial discrimination which may have existed in filling higher grade posts of Assistant Station Masters and Station Masters was removed in 1920.

(h) No.

(i) In view of the replies to part (b) to (g) above, this does not arise.

Mr. Lalchand Navalrai: May I know, Sir, if there are only three Superintendents at Delhi, Lahore and Karachi, and all these three people are Europeans?

The Honourable Sir Thomas Stewart: I have already said that none of the three posts is held by an Indian.

Mr. Lalchand Navalrai: Is it also a fact, Sir, that recently the place of Superintendent at Delhi station fell vacant, and instead of a senior Indian, a European was appointed?

Mr. President (The Honourable Sir Abdur Rahim): That does not arise out of this question.

Mr. Lalchand Navalrai: It does arise out of this question, Sir.

Mr. President (The Honourable Sir Abdur Rahim): No, no.

OPENING OF RURAL TELEGRAPH OFFICES.

114. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable Member for Communications state:

- (a) the ordinary procedure for opening a rural telegraph office;
- (b) whether it is opened only on guarantee; and
- (c) in how many cases the telegraph offices were opened with and without guarantee in the last and the present year?

The Honourable Sir Thomas Stewart: (a) Telegraph offices are opened at places where there is a demand for telegraph facilities and where the traffic offering is estimated to be sufficient to cover the extra cost involved in establishing and working the office. In cases where the telegraph income from the office is not likely to cover the extra cost, a guarantee is demanded for a term of years to safeguard Government against loss. This procedure applies both to urban and rural areas.

(b) No.

(c) Eighteen telegraph offices were opened during 1936-37 of which eight are guaranteed and ten are without any guarantee. Thirteen offices were opened during 1937-38 of which four are guaranteed and nine are without any guarantee.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, whether the amount of guarantee demanded varies with the places?

The Honourable Sir Thomas Stewart: The amount of the guarantee is determined by the probable loss that is likely to be incurred.

Mr. T. S. Avinashilingam Chettiar: May I know what is the minimum amount of business required for working a telegraph office without loss? I want to know it in money.

The Honourable Sir Thomas Stewart: That, I am afraid, I cannot answer, because the cost of working any particular office depends on its situation. For example, it depends on the amount of line that has to be erected in order to serve the office. It is impossible to give any answer.

Mr. N. M. Joshi: May I know, Sir, on what principle Government take a decision whether a guarantee should be asked or not?

The Honourable Sir Thomas Stewart: Government make an estimate of the amount of business that is likely to result by the setting up of the telegraph office.

Mr. N. M. Joshi: May I know whether the Government of India find out after the experience of one year, whether the telegraph offices from which no guarantee was taken are self-supporting?

The Honourable Sir Thomas Stewart: Certainly, if a telegraph office becomes an unpaying proposition, then it is a matter for consideration whether it should not be closed down.

Mr. K. Santhanam: May I know, Sir, whether it is the policy of the Government not to provide poorer areas with telegraph offices?

Seth Govind Das: Is it not a fact that certain expenditure which is incurred in working a telegraph office is capital expenditure and the other expenditure which is incurred is for running it? Which expenditure is taken into consideration when a new telegraph office is opened?

The Honourable Sir Thomas Stewart: We should take into consideration both these expenses.

VANS FOR CARRYING MOTOR VEHICLES ON THE ASSAM-BENGAL RAILWAY.

†115. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable Member in charge of Railways please state:

- (a) the number of vans for carrying motor vehicles on the Assam-Bengal Railway at present;
- (b) the amount of freight realised from transportation of motor vehicles in the latest year for which figures are available; and
- (c) if it is proposed to add four more vans at a cost of twenty-four thousand rupees?

The Honourable Sir Thomas Stewart: The information is being collected and will be laid on the table of the House in due course.

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

INTERIM TIME TABLE ISSUED BY THE EAST INDIAN RAILWAY.

116. ***Mr. Badri Dutt Pande:** (a) Will the Honourable Member in charge of Railways and Communications be pleased to state why it was considered necessary by the East Indian Railway to change the Railway time-table twice and issue two time-tables during the last six months and thus add unnecessarily to the expenditure?

(b) What was the additional cost in issuing an interim time-table?

(c) How many time-tables were printed and exchanged for the old ones?

The Honourable Sir Thomas Stewart: (a) On the East Indian, as on other principal railways, revised time tables are issued to have effect from 1st April and 1st October each year. After the issue of the October time table last year, various representations were received; in regard to the revised timings of No. 6 Down Mail, and the Administration decided to revert to the timings previously in force. This necessitated considerable adjustments in the timings of other trains, and the opportunity was also taken to introduce certain other trains which had become necessary, owing to an increase in the number of passengers. In order to avoid confusion and inconvenience to the public, the October time table, embodying the changes made, was re-printed and issued to have effect from 15th December, 1937.

(b) and (c). The Agent, East Indian Railway, states that the accounts have not yet been closed, and the figures asked for are, therefore, not available at present.

Dr. Sir Ziauddin Ahmad: Are the trains on the E. I. R. running according to the timings indicated in those time tables?

The Honourable Sir Thomas Stewart: I am afraid I must ask for notice of that question.

Sir, I beg to point out that in this question there is a misprint. Instead of Bengal Nagpur, it should be Bengal and North Western Railway. What is shown in the question list is a misprint in the second line.

NON-ACCEPTANCE OF CERTIFICATES FROM OTHER REGISTERED DOCTORS; ETC. ON THE BENGAL NAGPUR AND THE ROHILKUND RAILWAYS.

117. ***Mr. Badri Dutt Pande:** (a) Will the Honourable Member in-charge of Railways please state why the Bengal Nagpur and the Rohilkund Railways accept medical certificates only from the doctors under their employment and not from other registered doctors, vaidas and hakeems as is done in other Railways and Departments?

(b) Are Government aware of the fact that this rule causes hardship to innumerable petty and subordinate servants of the Railways, who have to go to their towns and villages on leave?

The Honourable Sir Thomas Stewart: I think that even so I can answer the Honourable Member's question.

(a) and (b). Government have no information. This is a matter of detailed administration, which is within the competence of the Agents of the Bengal and North Western and the Rohilkund and Kumaon Railways, which are company-managed. I may mention for the information of the

Honourable Member that on the State-managed Railways medical certificates from non-railway doctors are subject to acceptance by Railway Medical Officers.

Seth Govind Das: May we take it with respect to a question like this that Government have no information regarding any railway line?

The Honourable Sir Thomas Stewart: The Honourable Member may not take it.

Mr. Badri Dutt Pande: Is it the intention of the Honourable Member to refer this matter to the Railway Administrations for their consideration?

The Honourable Sir Thomas Stewart: I have informed the Honourable Member that this is a matter of detailed administration which is entirely within the competence of the Railway Administrations concerned.

Mr. Lalchand Navalrai: Is not the Honourable Member aware that in the civil departments the certificates of registered doctors are accepted and not referred or de-subjected to the approval of any Government doctors?

Mr. President (The Honourable Sir Abdur Rahim): That is a matter of argument.

Mr. Lalchand Navalrai: I want to know, Sir, if the Honourable Member is aware of it?

Mr. President (The Honourable Sir Abdur Rahim): It does not arise out of this question.

FEE OF MR. BARWELL, A BARRISTER OF CALCUTTA, ENGAGED IN THE BIHTA TRAIN ENQUIRY.

118. ***Mr. Badri Dutt Pande:** Will the Honourable Member in charge of Railways and Communications be pleased to state the amount of fee that Mr. Barwell, a Barrister of Calcutta High Court, is getting daily in the Bihta train enquiry case? Is it a fact that that gentleman is getting Rs. 800 per diem and his two assistants Rs. 300 per diem?

The Honourable Sir Thomas Stewart: Mr. Barwell, Barrister-at-Law, has been appointed as the leading Counsel for the railway with a junior to assist him in connection with the Bihta Accident Judicial Enquiry on the following terms:

- (1) For advising the Administration with regard to the Agent's report—10 Gms.
- (2) For perusal including consultations—30 Gms.
- (3) For the enquiry itself including consultations—50 Gms. per diem out of Calcutta including periods at the site of the accident and for professional visits to workshops, etc., in relation to the accident, but excluding days spent wholly in travel.
- (4) Ordinary travelling and hotel expenses,
- (5) Clerkage at Rs. 7 per diem.
- (6) 20 Gms. per diem *plus* expenses for the junior.

Mr. Badri Dutt Pande: What was his fee in Calcutta?

The Honourable Sir Thomas Stewart: I cannot inform the Honourable Member.

Mr. Badri Dutt Pande: Did the Government inquire before giving him this big fee which was the regular fee he was receiving in Calcutta?

Sir Abdul Halim Ghuznavi: Will the Honourable Member please state since how long Mr. Barwell has been counsel for the East Indian Railway?

The Honourable Sir Thomas Stewart: I must have notice of that question.

Sir Abdul Halim Ghuznavi: I want to know, Sir, what fee he was getting in Calcutta?

The Honourable Sir Thomas Stewart: I have already informed the Honourable Member that I am not aware of it.

Qazi Muhammad Ahmad Kazmi: May I know, Sir, who was responsible for engaging Mr. Barwell; is it the Railway or some agent of the Government?

The Honourable Sir Thomas Stewart: The Agent of the East Indian Railway.

Qazi Muhammad Ahmad Kazmi: Did he make any inquiries as to the previous emoluments Mr. Barwell was getting in Calcutta in ordinary practice?

The Honourable Sir Thomas Stewart: I have no information as to the inquiries made by the Agent of the East Indian Railway.

Sir Abdul Halim Ghuznavi: Is the Honourable Member aware that Mr. Barwell has been counsel for the East Indian Railway for the last 20 years, and he is virtually irremovable?

The Honourable Sir Thomas Stewart: I am prepared to accept the Honourable Member's statement.

Sir Abdul Halim Ghuznavi: Is the Honourable Member aware that Mr. Barwell has very little practice at the Calcutta Bar?

(No reply.)

DISAPPEARANCE OF SARDAR MUHAMMAD UMAR KHAN FROM NAINI TAL.

119. ***Mr. Badri Dutt Pande:** (a) Will the Secretary for External Affairs be pleased to state the circumstances in which political prisoner Sardar Muhammad Umar Khan suddenly disappeared from Naini Tal?

(b) Where is he now?

(c) Why has the allowance of other members of the family been stopped?

Sir Aubrey Metcalfe: (a) Sardar Umar Khan whose movements were restricted under Regulation III of 1818, eluded police surveillance and disappeared from Naini Tal early in October last. His escape is reported to be due to negligence on the part of the police constables responsible for his surveillance.

(b) Government have no information.

(c) The members of Sardar Muhammad Umar Khan's family were not in receipt of a separate allowance, and the question of the stoppage of their allowance does not, therefore, arise. The allowance which was sanctioned in the name of the Sardar himself has been stopped on account of his disappearance.

Mr. Badri Dutt Pande: Where is he nowadays?

Sir Aubrey Metcalfe: I wish I knew.

Mr. Mohan Lal Saksena: May I know how the family members of this Sardar support themselves?

Sir Aubrey Metcalfe: I may tell the House that we are considering sympathetically an application from the United Provinces Government to give them some allowance until the head of the family is traced and reappears.

EXPENDITURE ON ADVERTISEMENTS BY THE POSTS AND TELEGRAPHS DEPARTMENT.

120. ***Mr. Manu Subedar:** Will the Honourable Member for Railways and Communications be pleased to state:

(a) what sum from the beginning of the year to the end of November 1937 has been spent by the Posts and Telegraphs Department on advertisements; and

(b) the amount paid, or payable, in respect of such advertisements, with the names of the papers in which the advertisements were inserted?

The Honourable Sir Thomas Stewart: (a) Rs. 42,295.

(b) A statement is laid on the table.

Statement showing the amount spent on advertising in Newspapers during January, 1937, to November, 1937.

Bengal and Assam Circle.

Names of Newspapers.	Amount paid or pay- able to each.		
	Rs.	A.	P.
Statesman, Calcutta and New Delhi	4,741	7	0
Amrita Bazar Patrika, Calcutta	703	13	0
Star of India, Calcutta	76	3	0
Advance, Calcutta	499	8	0
Musalman, Calcutta	160	0	0
Indian Finance, Calcutta	160	0	0
Commercial Gazette, Calcutta	392	0	0
Whip, Calcutta	500	0	0
Darjeeling Times and Planters Gazette	13	0	0
Chief Commissioner's Press, Port Blair	3	8	0
Indian Economist, Calcutta	224	0	0
Indian Monthly Magazine, Calcutta	700	0	0
Annanda Bazar Patrika, Calcutta	857	8	0
Basumati, Calcutta	472	0	0
Vishwamitra, Calcutta	594	0	0
Asr-e-Jadid, Calcutta	278	0	0

Statement showing the amount spent on advertising in Newspapers during January, 1937, to November, 1937—contd.

Names of Newspapers.	Amount paid or pay- able to each.
Rs.	A. P.
<i>Bengal and Assam Circle—contd.</i>	
Lokamanyu, Calcutta	420 0 0
Hanafi, Calcutta	15 0 0
Dacca Prakash, Dacca	8 0 0
Musaidabad Hitaishi	3 4 0
Swayatta-Sasan, Bogra	2 8 0
Charumihir	12 12 0
Banga Ratna	6 4 0
Rangpur Darpan	5 4 0
Rangoon Gazette	18 0 0
Times of Assam, Dibrugarh	52 8 0
Sylhet Chronicle, Sylhet Town	22 4 0
Assamiya, Gauhati	53 8 0
Janasakti, Sylhet Town	77 8 0
Jugabheri, Sylhet Town	15 0 0
Calcutta Exchange Gazette	151 14 0
<i>Bihar and Orissa Circle.</i>	
Indian Nation, Patna	467 14 0
Searchlight, Patna	333 0 0
Cuttack Observer	14 12 0
Navashakti, Patna	130 0 0
Ittehad, Patna	109 0 0
Hitaishi, Arrah	8 0 0
New Orissa, Berhampore	15 8 0
Orissa Gazette	53 12 0
Samaj, Cuttack	52 8 0
<i>Bombay Circle.</i>	
Times of India, Bombay	3,843 2 0
Bombay Chronicle	1 3 0
Indian Social Reformer, Bombay	168 0 0
Bombay Samachar, Bombay	420 0 0
Sandesh, Ahmedabad	106 2 0
Jam-e-Jamshed, Bombay	517 8 0
Navakal, Bombay	8 12 0
Dhyan Prakash, Poona	406 14 0
Samyukta Karnatak, Belgaum	67 0 0
Gujrat Samachar, Ahmedabad	21 6 0
Kathiawar Times, Rajkot	12 0 0
Kandesh Baibhab, Dhulia	8 0 0
Karnatak Times	5 14 0
Colaba Sadvritta	27 0 0
Belgaum Samachar	11 0 0
Kesari, Poona	21 0 0
Vividha Vritta, Bombay	206 4 0
Praja Bandhu, Ahmedabad	9 0 0
Gujrati Punch, Ahmedabad	28 14 0
Gujrati Mitra and Gujrat Darpan, Surat	11 4 0
Nava Karnatak	12 8 0
Lohana Hetechu, Rajkot	45 0 0
Aikya, Satara City	53 0 0
Parikshak, Belgaum	23 15 6
Vichari, Karwar	10 8 0
Sayajirajya, Baroda	46 5 0
Karan Bharat, Belgaum	9 8 0
Ajmal, Daily, Bombay	30 0 0
Pratodh Chandrika	18 12 0
Sholapur Samachar	9 12 0

Statement showing the amount spent on advertising in Newspapers during January, 1937, to November, 1937—contd.

Names of Newspapers.	Amount paid or pay- able to each.
Rs. A. P.	
<i>Central Circle.</i>	
Hitabada, Nagpur	236 8 0
Daily News, Nagpur	217 0 0
Maharashtra, Nagpur	303 8 0
Karama-Vir, Khandwa	20 0 0
Al-Burhan, Akola	20 0 0
<i>Madras Circle.</i>	
Hindu, Madras	2,066 9 0
Madras Mail, Madras	1,600 2 0
Jaya Bharati, Madras	150 0 0
Andhra Patrika, Madras	372 8 0
Ceylon Observer, Colombo	30 0 0
Swadeshamitran, Colombo	151 8 0
Ceylon Daily News, Colombo	45 0 0
Mathrubhumi, Calicut	112 8 0
Times of Ceylon, Colombo	40 0 0
Monorama, Colombo	38 4 0
Tai Nandu, Bangalore City	10 0 0
Kantirava, Mangalore	67 8 0
<i>Punjab and N.-W. F. Circle.</i>	
Civil and Military Gazette, Lahore	1,456 8 0
Tribune, Lahore	803 4 6
Eastern Times, Lahore	216 12 0
Pilot, Amritsar	8 0 0
Weekly Advertiser, Multan	25 6 0
Inqilab, Lahore	263 12 0
Pratap, Lahore	248 14 0
Milap, Lahore	337 8 0
Ihsan, Lahore	26 0 0
Hindu, Lahore	24 0 0
Vir Bharat, Lahore	225 0 0
Biswa-Bandhu, Lahore	337 8 0
Khalsa Sewak, Amritsar	187 8 0
Hindustan Times, New Delhi	1,162 8 0
National Call, Delhi	680 8 0
United India and Indian States, New Delhi	20 0 0
Iolanthe, New Delhi	30 0 0
Tej, Delhi	781 4 0
Millat, Delhi	585 0 0
Arjun, Delhi	730 0 0
Nav Yug, Delhi	210 0 0
Watan, Delhi	481 4 0
Swarajya, Delhi	562 8 0
Hindustan, New Delhi	270 0 0
Khyber Mail, Peshawar	123 11 0
Frontier Advocate, Peshawar	990 0 0
Mujahid, D. I. K.	112 0 0
<i>Sind and Baluchistan Circle.</i>	
Sind Observer, Karachi	605 6 0
Daily Gazette, Karachi	363 10 0
Sind Samachar, Karachi	38 4 0
Hindu, Karachi	165 3 0
Samsar Samachar, Karachi	119 15 0
Albert Press, Quetta	23 3 0
Sind Sewak	18 6 0

Statement showing the amount spent on advertising in Newspapers during January, 1937, to November, 1937—concl'd.

Names of Newspapers.	Amount paid or payable to each.
<i>United Provinces Circle.</i>	Rs. A. P.
Leader, Allahabad	2,542 12 0
Pioneer, Lucknow	1,700 4 0
Pratap, Cawnpur	451 0 0
Medina, Bijnor	8 8 0
Aj, Benares City	304 8 0
Bharat, Allahabad	600 0 0
Hamdam, Lucknow	188 0 0
Abhyudaya, Allahabad	180 0 0
Sarfaraz, Lucknow	18 12 0
Agra Akhbar, Agra	5 0 0
Total	42,294 12 0

Mr. Manu Subedar: Have Government found any difficulty in giving the information relating to the Postal Department through press notes. Have any newspapers refused to take Government press notes?

The Honourable Sir Thomas Stewart: No, Sir.

Mr. Manu Subedar: Will Government save the whole of this outlay in future from public funds by discontinuing the advertisements?

Mr. President (The Honourable Sir Abdur Rahim): That is asking for action which is not allowed.

RADIO LICENCE-HOLDERS, RADIO PROGRAMMES AND REMUNERATION TO SINGERS, ETC.

121. ***Mr. Manu Subedar:** Will the Honourable Member for Railways and Communications be pleased to state:

- the number of licence-holders for radios in India as on the last date for which information is available, and the total amount of fees payable by such licence-holders;
- how many of these licence-holders are Indian, and how many are non-Indian;
- whether Government propose to direct that programmes should be so adjusted as to be available to the majority, particularly after 9 o'clock every evening;
- how much of the total revenue is spent on administration, and how much is spent on honorarium and remuneration to singers and others; and
- how much of this outlay has gone to Indian artists and how much to non-Indian?

The Honourable Sir Thomas Stewart: (a) On 31st December, 1937, there were 50,164 licence-holders, and the fees payable by them amounted to Rs. 4,56,408.

(b) The information is not available, as details of Indian and non-Indian licence-holders are not maintained separately.

(c) Programmes are available to all listeners both before and after 9 P.M.

(d) In 1936-37 a sum of Rs. 3,70,587 was spent on honoraria and remuneration to singers and others, and Rs. 2,39,342 on administration.

(e) The figures are not readily available and the collection of the information will involve an expenditure of time and labour disproportionate to the result.

Mr. Mann Subedar: Is it true that the Indian music programme is generally not given after 9 P.M. and that after nine English programmes are given?

The Honourable Sir Thomas Stewart: That is not my information.

Mr. Mann Subedar: Would Government consider relaying better European programmes from London rather than spend Indian money on English music?

Mr. President (The Honourable Sir Abdur Rahim): That is again asking for action which is not allowed.

APPOINTMENT OF AN INDIAN AS CHAIRMAN OF THE BOMBAY PORT TRUST.

122. ***Mr. Mann Subedar:** Will the Honourable Member for Railways and Communications be pleased to state:

(a) whether they have received any representation now or on any previous occasion, when such appointments fell vacant, pressing for the appointment of an Indian as Chairman of the Bombay Port Trust;

(b) whether Government have selected an Indian for this post; and

(c) if not, why not?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) and (c). The question of filling the post permanently is still under the consideration of Government.

Mr. Mann Subedar: Will Government try to get a suitable Indian either by advertisement or by referring to Provincial Governments?

The Honourable Sir Thomas Stewart: I have told the Honourable Member that the question of filling the post permanently is under consideration, and he may take it that we are exploring all avenues in order to do so.

Mr. Mann Subedar: Are Government prepared to give an assurance that an Indian will be appointed?

The Honourable Sir Thomas Stewart: I would refer the Honourable Member to the reply I have already given.

MAIL CONTRACT WITH THE PENINSULAR AND ORIENTAL STEAM NAVIGATION COMPANY.

123. ***Mr. Mann Subedar:** Will the Honourable Member for Railways and Communications be pleased to state:

(a) when the mail contract with the Peninsular and Oriental Steam Navigation Company is terminating;

(b) whether any communication has been sent to or received by Government in regard to this contract; and

(c) what procedure Government propose to adopt in respect of the new contract, when it falls due, for the future?

The Honourable Sir Thomas Stewart: (a) The contract for the conveyance of mails by the Peninsular and Oriental Steam Navigation Company is between His Majesty's Postmaster-General and the Company. So far as is known at present the contract is not terminable before the 31st January, 1939.

(b) and (c). Do not arise as the contract is not with the Government of India.

Mr. K. Santhanam: Will the contract be renewed by the Indian Government or the British Government?

The Honourable Sir Thomas Stewart: It is a contract between His Majesty's Government and the Steamship Company in question.

Mr. K. Santhanam: Who will renew the contract—the Indian Government or His Majesty's Government?

The Honourable Sir Thomas Stewart: As the contract exists between His Majesty's Government and the P. and O. Steamship Company it is obvious that it is His Majesty's Government that will renew the contract, if the contract is to be renewed.

Mr. T. S. Avinashilingam Chettiar: Have the Government to be consulted in this matter before the contract is renewed?

The Honourable Sir Thomas Stewart: No, Sir.

Qazi Muhammad Ahmad Kazmi: Do the Government contribute anything towards the contract?

The Honourable Sir Thomas Stewart: They do not contribute towards the contract.

Mr. Manu Subedar: Is there a clause that if notice is not given after the date of the expiry of the contract, the contract would continue until notice is given.

The Honourable Sir Thomas Stewart: That is so. I have been informed that if no notice is given, the contract continues.

Mr. N. M. Joshi: May I know whether the Government of India contribute anything for the carriage of mails between India and England?

The Honourable Sir Thomas Stewart: Certainly they do.

Mr. N. M. Joshi: To whom do they make this contribution?

The Honourable Sir Thomas Stewart: To His Majesty's Government.

Mr. N. M. Joshi: May I ask whether the Government of India cannot influence the decision of His Majesty's Government in this matter.

The Honourable Sir Thomas Stewart: No, Sir.

Mr. N. M. Joshi: May I know if the Government of India pay whatever contribution is asked for by His Majesty's Government.

The Honourable Sir Thomas Stewart: That is a matter of negotiation between the two Governments.

Qazi Muhammad Ahmad Kazmi: Does not any part of the money contributed by India go to the P. and O. Company by way of payment?

The Honourable Sir Thomas Stewart: I could not say with any degree of confidence that the actual money that we pay to His Majesty's Government is transferred immediately to the P. and O. Company.

Mr. M. S. Aney: For whom do His Majesty's Government demand this contribution? Is it not for making payment to this Company?

The Honourable Sir Thomas Stewart: No, Sir. His Majesty's Government have entered into a contract in virtue of which they are allowed the service of ships to carry their mails. These ships carry a certain amount of Indian mail, and for that service we pay a certain sum to His Majesty's Government.

Mr. Manu Subedar: What savings do Government expect from the carriage of mails by air in future?

The Honourable Sir Thomas Stewart: I cannot give you any detailed estimate.

Mr. President (The Honourable Sir Abdur Rahim): There is nothing here about carrying mails by air.

Mr. Manu Subedar: Mails are in future going to be carried by air.

Mr. President (The Honourable Sir Abdur Rahim): That is a different question altogether. Next question.

APPOINTMENT OF A COMMERCIAL MANAGER AND COMMERCIAL STAFF ON RAILWAYS.

124. ***Sardar Mangal Singh:** Will the Honourable Member for Railways and Communications please state:

- (a) whether Government have considered the proposal of the Indian Railways Enquiry Committee regarding the appointment of a Commercial Manager and commercial staff on all the Railways; and
- (b) whether the new Commercial Manager would not be imported from Great Britain, as was recommended by the Wedgwood Committee, but he would be an Indian as announced by Sir Sayad Sultan Ahmad Khan in this House during the Simla Session?

The Honourable Sir Thomas Stewart: With your permission, Sir, I will reply to questions Nos. 124, 125, 126 and 127 together. I would refer the Honourable Member to my reply given to starred question No. 18 asked in this House by Mr. Badri Dutt Rande on the 31st January, 1938.

Sardar Mangal Singh: May I know whether the Commercial Manager will be an Indian?

The Honourable Sir Thomas Stewart: If I may remind the Honourable Member of the substance of the reply which I quoted, I propose in the near future to lay on the table of the House a full statement of the decisions taken on the Wedgwood Report, and I would ask the Honourable Member to wait until I have had the opportunity of placing that statement on the table.

Sardar Mangal Singh: I would remind the Honourable Member that at the last Simla Session, the then Railway Member assured the House that the Commercial Manager would be an Indian. Do the Government of India now stand by that or not, now?

The Honourable Sir Thomas Stewart: That, I submit, does not arise out of this question or the answer I gave to it.

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

SUBORDINATE SUPERVISORY TECHNICAL ESTABLISHMENT AND GAZETTED POSTS IN THE MECHANICAL ENGINEERING DEPARTMENTS ON RAILWAYS.

†125. ***Sardar Mangal Singh:** Will the Honourable Member for Railways and Communications please state:

- (a) whether the recommendations of the Indian Railways Enquiry Committee in connection with the subordinate supervisory technical establishments and the gazetted posts in the Mechanical Engineering Department have been considered by Government and how the matters stand at present; and
- (b) whether the assurance given by the then Railway Member would be fulfilled and appointments to these posts would be made from this country?

APPOINTMENT OF A PRESS LIAISON OFFICER WITH STAFF ON RAILWAYS.

†126. ***Sardar Mangal Singh:** Will the Honourable Member for Railways and Communications please state:

- (a) whether Government have considered the recommendation of the Indian Railway Enquiry Committee regarding the appointment of a Press Liaison Officer with staff; and
- (b) whether an Indian journalist would be appointed to this post, and when the appointment is likely to be made?

APPOINTMENT OF A STATISTICAL OFFICER IN THE RAILWAY BOARD'S OFFICE.

†127. ***Sardar Mangal Singh:** Will the Honourable Member for Railways and Communications please state:

- (a) whether Government have considered or propose to consider the question of the appointment of the statistical officer in the Railway Board's office; and

†For answer to this question, see answer to question No. 124.

- (b) what efforts Government have made to secure a suitable person from India for the post of a statistical officer?

RAILWAYS AS A DISAPPEARING SOURCE OF REVENUE FOR THE RELIEF OF GENERAL TAXATION.

128. *Sardar Mangal Singh: Will the Honourable Member for Railways and Communications please state:

- (a) whether Government have considered the proposal of the Wedgwood Committee that railways should no longer be looked upon as a possible source of revenue for the relief of general taxation; and
- (b) what decisions Government have taken or propose to take in the matter?

The Honourable Sir Thomas Stewart: (a) and (b). Government have nothing to add at present to the statements made in this House on this subject by my predecessor in the course of the debate on the Report of the Railway Enquiry Committee on the 27th August last and by the Honourable the Finance Member on the 7th October last during the debate on the Resolution permitting Railway Revenues to postpone repayment of their outstanding debt to the Depreciation Fund and payment of their arrear contribution to general revenues.

Dr. Sir Ziauddin Ahmad: Will Government issue a statement of their decisions on the Wedgwood Committee's Report?

The Honourable Sir Thomas Stewart: I have just referred one Honourable Member to the reply I gave in which I stated that I would lay on the table a comprehensive list of the decisions that had been taken on the Wedgwood Committee's Report.

Mr. K. Santhanam: Question No. 129. I wish to point out that there is a misprint in clause (b) of the question: it should be "have *not* got to be delivered", instead of "have got to be delivered".

CASUAL LEAVE TO POSTMEN.

129. *Mr. K. Santhanam (on behalf of Mr. George Joseph): Will the Honourable Member for Railways and Communications be pleased to state:

- (a) whether postal peons are entitled to casual leave every year and, if so, for how many days in the year;
- (b) whether there is any single day in the year, including postal holidays, when postal articles have got to be delivered at least once a day;
- (c) when postmen are granted casual leave, what are the arrangements made for effecting the deliveries of postal articles normally to be made by them;

(d) whether there is a reserve of men available to relieve and take the place of postmen on casual leave, and if so, what is the percentage of such reserve to the total number of postmen; and

(e) if there is no such reserve, how the grant of casual leave works out in practice?

The Honourable Sir Thomas Stewart: (a) The maximum amount of casual leave admissible to postmen is twenty days in a year; but I may add for the information of the Honourable Member that casual leave cannot be claimed as a matter of right.

(b) At least one delivery of postal articles by postmen is made every day in the year.

(c) Ordinarily the work of the absentee postman is distributed among the rest of the staff present for duty. In the case of smaller post offices where the total number of postmen and inferior servants does not exceed four, it is permissible to employ a paid substitute in the place of the absentee postman granted casual leave. In the case of the larger offices, it is also similarly permissible to employ paid substitutes if by reason of the absence of an abnormally large number of postmen and inferior servants it is found impossible to distribute the work among the staff present for duty.

(d) The reply to the first part is in the negative; the second part does not arise.

(e) I would refer the Honourable Member to the reply already given by me to part (c) of the question.

Mr. K. Santhanam: Am I to understand that postmen are as a matter of fact given these 20 days' casual leave a year on the average?

The Honourable Sir Thomas Stewart: So far as it is possible to do so.

Seth Govind Das: Is it not a fact that various complaints are generally made by the staff that these twenty days are not given to them?

The Honourable Sir Thomas Stewart: It is perfectly true that it is not possible to give every man his twenty days' casual leave a year; but again I must remind the Honourable Member that casual leave is not a right but a privilege.

Seth Govind Das: But is it not a fact that this privilege is generally used by the higher officials and only the lower staff has to suffer?

The Honourable Sir Thomas Stewart: My information does not agree with that of the Honourable Member.

Mr. N. M. Joshi: May I ask whether Government will make inquiries in order to find out what is the extent of the actual casual leave enjoyed by the postal peons?

The Honourable Sir Thomas Stewart: I cannot promise to make any such inquiry.

Mr. N. M. Joshi: May I ask why Government should not make the inquiry in the interests of the employees?

The Honourable Sir Thomas Stewart: First of all because I think there would be no useful result to any such inquiry. In the second place I am sure it would involve more time and expense than we can afford to give to it.

Mr. N. M. Joshi: Are not the Government of India interested in the welfare of these low-paid employees?

The Honourable Sir Thomas Stewart: Most certainly they are.

Mr. K. Santhanam: Will Government kindly make test inquiries in selected circles? Why cannot they do that?

The Honourable Sir Thomas Stewart: Because I cannot imagine that any useful result would emerge from any such inquiry.

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

EXTENSION OF FACILITIES FOR POSTAL SERVICES IN RURAL AREAS.

130. ***Mr. K. Santhanam** (on behalf of Mr. George Joseph): Will the Honourable Member for Railways and Communications be pleased to state:

- (a) whether it is the policy of the Government of India to extend facilities for postal services in rural areas;
- (b) whether in the carrying out of such policy the postal department follow the practice in other countries of the running of village and branch post offices, as a part time business by literate people running stores, grocery, sweet shops, etc.; and
- (c) whether the Postal Department are in such cases prepared to give preference to retired postmen, or their sons, or dependents, who are otherwise qualified?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) It has long been the policy and practice of the Department to utilise extra-departmental agents for the working of the smaller post offices in rural areas, and this policy will be continued.

(c) No.

UNSTARRED QUESTIONS AND ANSWERS.

AUDIT OF ACCOUNTS OF THE OFFICE OF THE CHIEF AERODROME OFFICER, KARACHI.

13. **Prof. N. G. Ranga:** Will the Honourable Member for Communications be pleased to state:

- (a) when the accounts of the office of the Chief Aerodrome Officer, Karachi, were last audited;
- (b) whether these accounts are being audited every year;
- (c) what remarks were made in the audit report for the same office for the last year; and

- (d) what is the system of inspecting and checking the accounts of all aerodrome offices, and what is the system of regularly auditing them?

The Honourable Sir Thomas Stewart: (a) and (b). The accounts of the Chief Aerodrome Officer are under the audit control of the Accountant General, Central Revenues, who carries out their audit in accordance with the normal procedure.

(c) Routine objections were made to certain items of expenditure, such as the absence of supporting vouchers or copies of sanctions by competent authorities.

(d) The Chief Aerodrome Officer and the Aerodrome Officers are responsible for inspection and checking of the accounts of their respective offices. These accounts are also received monthly in the office of the Accountant General, Central Revenues, and audit is conducted in accordance with the normal procedure adopted in respect of all Government offices under his audit.

EXPENDITURE AND PERIOD OF TRAINING FOR OBTAINING A COMMERCIAL PILOT'S LICENCE.

14. **Prof. N. G. Ranga:** Will the Honourable Member for Communications be pleased to state:

- (a) if it is not a fact that there is not a single country in the whole of Europe or Asia in which the requirement for a commercial pilot's licence is 200 hours except in India; and that the cost of a commercial pilot's licence at one of the Government subsidised flying clubs in India is nearly four times higher than, for instance, the cost of the same licence at one of the Government subsidised flying clubs in England; and
- (b) if Government have considered that the introduction of 200 hours for a commercial pilot's licence tends to discourage Indian young men in taking up aviation as their career, and that this 200 hours requirement is not in the interest of safety or efficiency of Indian aviation?

The Honourable Sir Thomas Stewart: (a) The Honourable Member is referred to the reply I gave to parts (a) and (b) of starred question No. 30 by Mr. Abdul Qaiyum in this House on the 31st January, 1938. Government have no information with regard to countries in Europe and Asia other than Great Britain and India.

(b) As I stated in reply to part (f) of starred question No. 1027 by Mr. Abdul Qaiyum on the 6th October, 1937, the requirement of 200 hours solo flying for commercial pilots was introduced, because it was considered the minimum necessary to ensure that the pilot could safely be entrusted with the lives of passengers. This requirement has resulted in trainees being more nearly fitted for employment on gaining their licences than they would otherwise have been. Government do not consider that it has discouraged young men from taking up aviation as a career. There is an increasing number of them taking flying training.

WITHDRAWAL OF RECOGNITION OF THE GREAT INDIAN PENINSULA RAILWAY WORKERS' UNION.

15. **Prof. N. G. Ranga:** Will the Honourable Member for Railways be pleased to state:

- (a) when the recognition of the Great Indian Peninsula Railway Workers' Union was withdrawn;
- (b) how many times the Union has asked for the restoration of the recognition;
- (c) when it was last decided not to restore it; and on what grounds;
- (d) whether there have been any fresh representations from the Union since the last decision was taken; and
- (e) what conditions Government consider should be satisfied by the Union if the recognition is to be restored?

The Honourable Sir Thomas Stewart: I am obtaining information and will lay a reply on the table of the House in due course.

RESTORATION OF RECOGNITION OF THE BENGAL NAGPUR RAILWAY EMPLOYEES UNION.

16. **Prof. N. G. Ranga:** Will the Honourable Member for Railways be pleased to state:

- (a) if the recognition of the Bengal Nagpur Railway Employees Union has been restored; and
- (b) if not, why not?

The Honourable Sir Thomas Stewart: (a) and (b). Presumably the Honourable Member is referring to the Bengal Nagpur Railway Indian Labour Union. If so, recognition of this Union was withdrawn, by the Agent, Bengal Nagpur Railway, in February last. From the information available with Government, it is understood that the matter is under the consideration of the Agent, Bengal Nagpur Railway, who is fully competent to deal with it.

EXPENDITURE AND PERIOD OF TRAINING FOR OBTAINING AN AVIATION LICENCE.

17. **Mr. Akhil Chandra Datta:** (a) Will the Honourable Member in Charge of Communications state whether it is a fact that an aviation licence involves the expenditure of Rs. 8,000 and twentyfour months' training in India, whereas in Great Britain and the continental countries the expenditure is Rs. 2,000 only and training is required for six months only?

(b) Will he also state whether, in view of the necessity for military as well as for civilian activities, Government are prepared to consider the advisability of reducing the amount and period and thus make the avocation attractive to Indians?

The Honourable Sir Thomas Stewart: (a) The figure given as regards Great Britain is not correct. The Honourable Member is referred to the reply to part (g) of question No. 196 by Mr. Amarendra Nath Chattopadhyaya laid on the table of this House on the 31st January, 1938. Government have no information as regards the cost in continental countries.

(b) No, Sir. I would refer the Honourable Member to my reply to part (b) of unstarred question No. 14 by Prof. N. G. Ranga today.

MOTION FOR ADJOURNMENT.

TRANSFER OF CERTAIN VILLAGES IN MERWARA DISTRICT TO THE ADMINISTRATIONS OF JODHPUR AND UDAIPUR STATES.

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of a motion for the adjournment of the business of the House from Mr. Mohan Lal Saksena. He proposes to move the adjournment of the Assembly "for the purpose of discussing a definite and specific matter of urgent public importance of recent occurrence, namely, the transfer of certain villages in Merwara District from the Government administration to the administrations of Jodhpur and Udaipur States without consulting the wishes of the people of the area or the Legislative Assembly. The communique announcing the decision of the Government was issued on the 2nd February, 1938."

Is there any objection?

The Honourable Sir Nripendra Sircar (Leader of the House): Sir, I have no objection to take in this forum.

Mr. President (The Honourable Sir Abdur Rahim): The motion will be taken up at 4 o'clock.

THE DURGAH KHAWAJA SAHEB (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): Legislative Business. Further consideration of the Bill to amend the Durgah Khawaja Sahab Act, 1936. Clauses from No. 2 to No. 8 have been disposed of. Clause 9. Syed Ghulam Bhik Nairang.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I beg to move:

"That in clause 9 of the Bill, in the proposed section 16 the words 'powers or' occurring in the fourth line be omitted."

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

"That in clause 9 of the Bill, in the proposed section 16 the words 'powers or' occurring in the fourth line be omitted."

The motion was adopted.

Syed Ghulam Bhik Nairang: Sir, I beg to move:

"That in clause 9 of the Bill, the proposed section 16 be re-numbered as sub-section (1) of section 16 and the following be added as sub-section (2):

'(2) No suit shall lie in any Court in respect of any matter which is required by sub-section (1) to be referred to a Board of Arbitration'."

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

"That in clause 9 of the Bill, the proposed section 16 be re-numbered as sub-section (1) of section 16 and the following be added as sub-section (2):

'(2) No suit shall lie in any Court in respect of any matter which is required by sub-section (1) to be referred to a Board of Arbitration'."

Mr. M. S. Aney (Berar, Non-Muhammadan): Sir, what I find is this that at the end of this clause 9 appear the following words: "and the decision of the Board shall be final and shall not be questioned in any Court". In view of these words, I believe this proviso which my Honourable friend wants to add is superfluous. I want him to consider this point.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): It is not superfluous. The new sub-clause provides that that is the only way by means of which the cases will be decided. The other sub-clause says that if you go to the Tribunal, you cannot appeal to any Court against its decision, but this sub-clause provides that even in original suit you ought to go to the Tribunal and not to the ordinary Court. So, it is not redundant.

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

"That in clause 9 of the Bill, the proposed section 16 be re-numbered as sub-section (1) of section 16 and the following be added as sub-section (2):

'(2) No suit shall lie in any Court in respect of any matter which is required by sub-section (1) to be referred to a Board of Arbitration'."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clauses 10, 11 and 12 were added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim): The question is that clause 1 stand part of the Bill.

Dr. Sir Ziauddin Ahmad: May I move just a verbal amendment to this clause, namely:

"That in clause 1 for the figures '1937' the figures '1938' be substituted."

Mr. President (The Honourable Sir Abdur Rahim): I allow that amendment. The question is:

"That in clause 1 for the figures '1937' the figures '1938' be substituted."

The motion was adopted.

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

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

"That the Title and the Preamble stand part of the Bill."

Mr. M. S. Aney: A consequential amendment will have to be made in the Preamble also. The figures '1936' will have to be changed to '1938'.

Mr. President (The Honourable Sir Abdur Rahim): That is the original Act. The question is:

"That the Title and the Preamble stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

Dr. Sir Ziauddin Ahmad: Sir, I beg to move that the Bill, as amended, be passed.

In this particular Bill we have made no change in the principle of the original Bill. We have only made it more practicable and we have improved its drafting. We remember that the last Bill was drafted very hurriedly and neither the Government nor the Mover of the Bill had time to scrutinise all the details. We discovered subsequently that the Bill, as it emerged from the Assembly and the Council of State, was not workable. Now, we hope that this Bill, as we have now passed it, will be a great improvement and will lead to the better administration of the Durgah Property. All the Mussalmans of India and especially the Muslim Members of this Legislature are very anxious to see improvement in the administration of the Durgah and we sincerely hope that the new Committee that we have formed will be able to administer the affairs of the Durgah in a more efficient manner and that the good sense will prevail in Ajmer itself and all the troubles that are there will cease to exist. I also acknowledge with thanks the assistance given to me by Mr. Williams. I beg to move that the Bill, as amended, be passed.

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

“That the Bill, as amended, be passed.”

Maulvi Syed Murtuza Sahib Bahadur (South Madras: Muhammadan): Sir, it is with great pleasure that I support the motion that the Bill, as amended, be passed. In so doing, I want to give a word of warning to those servants of the Durgah who were concerned in the assault on two staunch supporters of this measure, I mean, Mirza Abdul Qadir Beg, M.A., LL.B., Advocate, who is the founder of the Mohammad Ali High School at Beawar, and Gazi Mohiuddin. In fact, the first gentleman is the author of this Bill and it was on that account that the encomiums were showered on him by many Members of this Assembly when this measure was passed into law. These gentlemen were assaulted by some servants of the Durgah simply because they evinced much interest in this measure, which is calculated to improve the administration of the Durgah, which is held, as is rightly pointed out by the Mover of the Bill, as the most important shrine in the whole of India. It was on the 17th of January, 1938, that these two gentlemen were assaulted and it is our duty to resent such act on the part of the servants of the Durgah. Should such a thing occur again, we would be driven to the necessity of passing more stringent laws than this. The redeeming feature of this incident, however, is that the authorities of Ajmer have taken up this question in right earnest and many of these Khadims are to be bound down under section 107 of the Criminal Procedure Code. With these few remarks, I support the motion.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Sir, I beg to add a few words in support of the measure proposed by my friend, Dr. Sir Ziauddin Ahmad. The Khanqah of Ajmer is one of the most sacred shrines of Islam throughout India. The efficient management of this shrine was jeopardised by the autocratic attitude of those who held the sway formerly. Many stories were heard of people being assaulted and insulted who dared to challenge the autocratic decisions of the Sajjada-nashin, the Manager, and his comrades there. This measure is intended to put a check upon the unlawful tendencies of those gentlemen who used to think that they were the masters of the situation and that there was nobody to prevent them from carrying things in a high-handed fashion.

[Maulana Zafar Ali Khan.]

The Committee proposed under this law that will shortly come into force will act as a check upon the vagaries of those gentlemen. The object of the Bill is to ensure the efficient management of the shrine so far as the finances are concerned, so that there should be no dishonest practices.

But there is another aspect of the question. Sajjadanashins and Mutawallis have got certain prescriptive rights and those rights belong to their holy position as the guardians of the shrine and, having enjoyed those rights and privileges from time immemorial, we do not want to interfere in those privileges. But they should have no authority and no power to interfere in those matters which affect the efficient management of the shrine as regards the finances. Let them do what they like so far as the privileges are concerned, and if any difference arises between the Committee as a whole and the Sajjadanashins and Mutawallis as its members, then that matter should be taken to a tribunal which is proposed under this Bill with one of the Judges at its head and two of the nominees of both parties who are affected. One member of this tribunal might be nominated by the Sajjadanashins and another nominated by the Committee and their decision shall be final. In respect of other matters we trust that all interference will cease. They shall have no authority to carry the matter to the other tribunals and thus place the whole matter in jeopardy. With these few words, I strongly support the motion.

Mr. Abdul Qaiyum (North-West Frontier Province: General): Sir, I think the Honourable Members of this House in general and the Honourable Member-in-charge of the Bill in particular deserve to be congratulated on having effected considerable improvements in this very important measure. It is a well-known fact that the Durgah of Khawaja Sahib at Ajmer is held in great veneration and respect by Muslims throughout India. It is this Durgah which attracts annually thousands of people from the Frontier and even from across the Frontier who come for the purpose of pilgrimage. There is no doubt that the present Bill has brought about great improvements in the Bill which was passed in 1936.

But there is one aspect of the Bill about which I would like to say something. There is a very large volume of opinion in this country which believes that all these charitable endowments stand in need of a thorough overhaul in the matter of management. Very large properties have been placed at the disposal of these trusts and they are being managed by persons selected on the principle of heredity. They go on managing and mismanaging these properties from generation to generation with the result that the very valuable trusts of a community which is very poor are being wasted in useless directions. There is no doubt that in this Bill a representative and a more democratically constituted Committee has been set up, but I am sure that the time is not far off when this Bill and other similar Bills dealing with Muslim endowments will require more radical changes and amendments.

I think, Sir, if democratically constituted Committees are set up to deal with various Muslim trusts in different parts of India, it is desirable that they should be given more latitude and more powers in the matter of spending the incomes of these trusts, and that they should not be bound

down to merely carrying out the wishes of the donors. They should have the powers, where no wishes have been expressed by the donors, to suggest better substitutes so that the community can benefit from these suggestions and decisions of these Committees. Recently, Sir, a Wakf Bill was introduced in the North-West Frontier Province Assembly and many eminent Muslim Divines were sent for and their evidence was recorded before that particular Committee, and there was a very large volume of opinion in favour of the proposal that the democratically constituted Committees should have powers to spend the money in any manner which they think will result in the betterment of the lot of the Muslim community. In the old Act, we find that there is section 19 which states:

"The Committee shall in the expenditure of the income of the Durgah endowment abide by the directions contained in the wakf-deed and shall allot not less than 20 per cent. of the income from Durgah endowment to religious preaching."

There may be cases where no specific directions have been laid down in the wakf deed. What has the Committee to do in such a case? I think the time is not very far off when ampler powers will be given to such well constituted and well set up Committees to make suggestions for the better use of the income from these various wakfs. I also think that the amount allotted for preaching is quite sufficient and I also imagine that the balance could have been spent in providing better facilities for the education of Muslim boys and girls, and for looking after the orphans and for other purposes which are very necessary for the betterment of the Muslim community. But, I am sure it will take some time. Public opinion is moving in that direction and the time is not far off when a check will be put on this scandalous waste of public funds. There are a very large number of trusts and the income derived from them is being frittered away and wasted away at present by incompetent Mutawallis; and I hope, Sir, the time is not far off when Bills will be passed dealing with all these various trusts and that the income derived from these trusts will be used for better purposes,—for improving the educational condition of the Muslims and for other objects which may result in the general improvement of the Muslim community. I congratulate my Honourable friend, Dr. Sir Ziauddin Ahmad, on the very noble effort made by him in taking away this management from out of incompetent hands and setting up a Committee which is a very well constituted Committee indeed. With these remarks, I support the motion.

Maulvi Abdur Rasheed Chaudhury (Assam: Muhammadan): Sir, I think I must congratulate Dr. Sir Ziauddin on this amendment to the Durgah Khawaja Saheb Act. He deserves thanks for the labour he took in framing a Bill of this nature. It is well-known how difficult it is to frame a Bill and specially for those Members of the Assembly who are not lawyers. I do not know how often he must have mended his drafts before he could finally frame his Bill. We have been seeing for the last two days how anxious he was to have this Bill of his passed in the Assembly. He got all the Muslim Members together to see the amendments proposed in the Bill. He was very particular about one thing and that is that he wanted to deal with the administration of the endowment and not with the administration of the shrine; and he persuaded everybody else to withdraw his amendments simply because he wanted to avoid interference with the internal administration of the

12 Noon.

[Maulvi Abdur Rasheed Chaudhury.]

shrine. In fact, I myself had a few amendments and gave them to the Notice Office in time but I do not know what happened to them in the meantime.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should have made all possible efforts himself to find out what happened to them. But, I am told now that his amendment related to a clause which has already been disposed of by this House.

Maulvi Abdur Rasheed Chaudhury: They ought to have returned them to me saying . . .

Mr. President (The Honourable Sir Abdur Rahim): Not at all. There is no such duty laid on the Office.

Maulvi Abdur Rasheed Chaudhury: At any rate, I had something to say about some clauses of this Bill. Of the 25 members of the Committee I find that Sind and the North-West Frontier Province have each been given a member, but Assam has not got any member although the Sylhet district itself contains a Muslim population as large as in any of those two provinces. I complained of this to Sir Ziauddin but he told me that he could meet my demand as one of the members elected by the Central Legislature would be allotted to Assam. So, I kept quiet. Another point I wanted to criticise was that with regard to the Presidentship; I did not want to make anybody permanently disqualified for it. In this Bill they have permanently disqualified those referred to in clause 3 (a) to (c) from the Presidentship. In spite of individual complaints I would not like to make anybody permanently disqualified.

With regard to the endowment of the Durgah, I understand that the income of the endowment will be about 7 lakhs of rupees a year. It would have been a nice thing if a portion of this income could have been utilised for the education of the people of Ajmer. I paid a visit to Ajmer some time last year and I was surprised to find the extent of illiteracy prevailing there. I think it is the most illiterate part in the whole of India. So, if a portion of the income could have been utilised in providing education to the people of that locality, it would be well spent. I think sooner or later the Bill will have to be further amended in order to provide facilities for education from the funds of this endowment. I again thank those Members who took part in the deliberations on this Bill and specially Mr. Aney who took keen interest in some of its clauses. Sir, I support the motion.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I thank the entire body of Muslim Members of the Central Legislature who gave whole-hearted support in making such amendments to the "Durgah Bill" as were necessary in the circumstances. My Honourable friend, Mr. Abdul Qaiyum, has justly said, the Bill was not ideal and the clauses were not free from defects, but in the circumstances that the Bill was rushed through at the end of the Simla Session of 1936, I think it is to our credit that we could unanimously agree on so many things and evolved a measure which was best in the circumstances. I congratulate and thank every one of the Members in this

House and in the Council of State who worked hard in connection with this Bill with a sincere and honest purpose and specially my Honourable friends, Syed Ghulam Bhik Nairang and Dr. Sir Ziauddin, deserve our heartfelt thanks for the initiative they took in reaching at an agreement.

Now, Sir, the Ajmer Durgah is an institution of world-wide interest for Muslims although situated in India, every part of the Muslim world has been looking with some amount of interest to our activities in connection with this Bill, as they all look upon the Ajmer Durgah with respect. We have passed an Act which could be best possible in the circumstances and we hope that in practical working of this Act conventions will grow whereby the Committee will be able to function to the best possible use and do the all what may be best thing possible for Muslims of India in the matter of education and other things as Mr. Abdul Qaiyum has suggested. Our Honourable friend, Mr. Syed Murtaza Saheb Bahadur, has rather introduced irrelevant matters in his speech, and I think his information is not based on any investigation but just on rumours, which always party feelings do spread in every country. We have tried our best to maintain the *status quo* for the hereditary posts, like those of Mutawallis and *khadims*, and we sincerely hope better sense will prevail among them to avoid any further party strife and to make us feel by working this Act that they have been handling the institution sincerely and honestly and with a desire to do good to the community. With these few words, I resume my seat.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I am one of those who think that all these institutions, Muhammadan or Hindu, should be controlled. The Ajmer Durgah has been a reputed institution of olden times where many people go who have faith: even Hindus go to that Durgah. I took some part in the discussion because I found that the proposers had completely omitted Sind representation on the Committee. I am now thankful to them for having added a representative from Sind and I congratulate Dr. Sir Ziauddin Ahmad for the efforts he has made to have this Bill passed. My present object is to draw the attention of the Hindus of Sind and of India to these institutions in Sind and indeed all over India, in which there is no discipline and no committees to take care of these institutions

An Honourable Member: Bring a Bill.

Mr. Lalchand Navalrai: Yes: I am requesting my friends, Hindus and Muhammadans, to join in passing such Bills to control these temples and *tikanas*. Provincial Governments have made some attempts in this direction by enacting Endowment Bills and the like, but they are not put into force. One was passed in the Bombay Council a long time ago, but it has not functioned at all. In those days it extended to Sind also but no officer was appointed as directed and it is more or less a dead letter, at least in Sind. I would ask the Sind Government and other Governments to take up this very important question and come to the help of the people whose money is being looted. I therefore support this Bill wholeheartedly and repeat my request to the Members to bring up Bills of this nature here as well as in the Provincial Assembly.

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

"That the Bill as amended, be passed."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 386.)

Sardar Sant Singh (West Punjab: Sikh): Sir, before I make the motion that stands in my name, in regard to my Bill, I want your indulgence just to make this point clear whether Standing Order 4 applies to these Bills

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member knows very well that he himself wrote to me a letter in which he asked for my ruling on the question whether a motion like this is necessary for continuance of the Bill or not. I considered the matter carefully and I gave my ruling, and in accordance with that ruling he has brought forward the motion. The only question now is whether he will go on with the motion or not. If any question arises in future I may reconsider the matter.

Sardar Sant Singh: All right, Sir. Then I make my motion. In deference to your ruling, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 386*) be continued."

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 386*) be continued."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 205.)

Sardar Sant Singh (West Punjab: Sikh): Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 205*) be continued."

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 205*) be continued."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 103.)

Sardar Sant Singh (West Punjab: Sikh): Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 103*) be continued."

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 103*) be continued."

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 167.)

Sardar Sant Singh (West Punjab: Sikh): Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 167*) be continued."

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 continued."

The motion was adopted.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I move:

"That the Bill to amend the Child Marriage Restraint Act, 1929, be taken into consideration."

Every one knows that in 1929 an Act was passed called the Child Marriage Restraint Act by which it was recognised in India that child marriages should be stopped. This was in the interests of every one living in India. Since 1929, this Act has been in force, under which a male under the age of 18 years and a female under the age of 14 years are prohibited from solemnising a marriage. The object of that need not be gainsaid. They were no doubt ancient times in which child marriages were rampant, but, Sir, the environments and circumstances were different, and they had perhaps certainly very sound reasons for celebrating child marriages in those days, but those times have gone by. We have now reached a stage where child marriages are a curse to India. In fact, till the passing of the Child Marriage Act in 1929, it was really a great curse to the country. People used to marry children of 5 and 6, nay, in some cases as soon as children were born they were tied down in marriage. This curse was realised by the public and the Government generally, and they not only welcomed the Child Marriage Enactment but were thankful to the authors of that Act. Here I must mention that the Government of India played a very laudable part in the passing of that Act. They also strengthened the hands of Rai Bahadur Harbilas Sarda, who was the principal author of this measure in those days. I must say, Sir, that when this measure was passed there was universal satisfaction. There were meetings held at several places by women's associations, and resolutions were passed thanking Rai Bahadur Harbilas Sarda for the great part he took in initiating such an important measure as this, and his name will go down to posterity, because, Sir, this measure is in common parlance known as the Sarda Act.

But, Sir, even after the passing of this measure, there are still some gaps in it, and I desire that they should be filled up. There was of course some prejudice and some opposition, in those days, to the passing of this measure, and therefore things had to be hurried up with the result that many loop-holes have come to notice in actual practice. One of these

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defects is that people do not want to go before a Magistrate where they have to deposit money as compensation to be awarded in case of the failure of the prosecution. There are many ways in which the provisions of general law are evaded, and I don't see why the same general law applicable to evasion of the provisions of other laws should not be made applicable in this case also. Then there is also a question with regard to the offence under this Act being made cognisable or otherwise, and the insufficiency of the punishment provided for offences under this Act. I merely mention this to draw the attention of the House that there are many defects which require to be remedied, and perhaps when the motion of my friend, Mr. B. Das, comes up, those gaps will be filled in.

At present I am concerned with a small matter which is defined in the Act. Sir, immediately after the Act was passed in 1929, people who had some dissatisfaction owing, I should say, to their selfish ends, began to invent some devices,—I don't suggest that all people did so, but some. The orthodox people in those days were naturally against the provisions of this measure, but many of them have now realised the evil effects of child marriages, and I do not think there will be any objection from their side, because we find that resolutions are passed at various places in India including the most orthodox centres condemning child marriages. Sir, it was one year after I entered the Assembly, that is to say, in 1929, the Sarda Act was passed. Immediately after that I made a move for the remedy contained in my Bill which fortunately has come up for consideration today. Till now for some reason or other this measure could not come before the House, and I am very thankful that this Bill has after all come to this stage before the House. Better late than never. As I was saying, Sir, immediately after the Sarda Act was passed, people devised some means or other to defy the provisions of that Act, and I say it was really a great misfortune that they should have done so for so long from 1929 up till now. People saw that it was no offence to perform a marriage in an Indian State or to go outside India, and thus evaded the provisions of the Act. My Bill now aims at making such an offence punishable under this Act, so that any British subject who is bound by our laws in all other matters, if he hops across the borders of his place in a British territory to an Indian State, and performs the marriage of his child, he will be punishable under the provisions of this measure. Those who offend the provisions of the Sarda Act in British India are punished, but if they go a few miles away from their own place into an Indian State and quietly perform the marriage and get back to their own place in British India they go scotfree. Sir, to my knowledge several marriages have been performed in this manner. As soon as I saw that after the passing of the Sarda Act in 1929 serious evasions of the law were taking place and the Act was virtually infructuous, I corresponded at least with one Native State which is close to my own place in Sind, I mean the Khairpur State. And what was the reply I got? The Administrator of the State wrote to me to say that he was not in a position to check the evil. The reason perhaps is this. There has been unfortunately a shameless practice prevalent in some of the States to charge Rs. 100 for each such marriage which is celebrated in the State. Now, what do the parties do? I shall just give an instance. They do not go even to the interior of the State. Now Sind and the Khairpur State are divided by the stream of the Indus river. What happens is that people perform the preliminary ceremonies at home, then go in a procession

and cross the river in boats and as soon as they reach the current in the middle of the river, they perform the ceremony. No body can tell them that they have committed an offence. They therefore go unpunished. These are things that have happened. I only ask you to bring those culprits within the clutches of the law.

There is another reason also for my moving this Bill. According to the general law if an offence is committed by any British subject outside British India, then under sections 3 and 4 of the Indian Penal Code, though that person commits an offence outside he can be tried in India and will be punished. There is, however, a difference of opinion as to whether any person who commits an offence under the Sarda Act can be so treated by operation of sections 3 and 4 of the Penal Code. There are two differing judgments on the subject, one by the Madras High Court and another by the Bombay High Court. The Madras High Court is of opinion that it is covered by sections 3 and 4 and the man guilty of it was actually punished by the Madras Courts; but the Bombay High Court have given a contrary view. Therefore, there is a difference of opinion and it is for this Honourable House to rectify that defect and pass this Bill in order to remove that doubt.

It would be seen from para. (4) of clause 2 that

"The provisions of this Act shall apply also to any offence committed under this Act by any British subject within the territories of any Native Prince or Chief in India and he shall be dealt with according to the provisions of this Act in British India in the same manner as if such act had been committed in British India."

This means that the act would be punishable if it took place in the territories of any Indian Prince or Chief but in India there are certain territories of foreign powers such as French Chandernagore, Pondicherry and others. If people go there and perform child marriages this Act would still be imperfect. I must say it is now to the credit of the Government that they have realised this defect and have put in an amendment to deal with this. So far as the question of territorial jurisdiction is concerned, it would be a complete Act if these amendments are accepted. I shall not take up any more time of the House. I submit that you will be gaining the blessings of India if you perfect it in such a manner that no child marriage is at all performed and therefore it will be the duty of this House to give unanimous support to this Bill and pass it into law. Sir, I move.

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

"That the Bill to amend the Child Marriage Restraint Act, 1929, be taken into consideration."

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): The intention of this proposed law is to punish people who go to Indian States or other places outside British India and perform marriages there. My personal experience is that Orissa is the worst affected, in this respect. For it is surrounded by so many Indian States and though only 3 or 4 lakhs out of 82 lakhs of people of that Province are affected by this law on restraint of child marriage, still people are evading this law and these evasions are many. So, this is a very good provision as a consequential measure of the existing law and is welcome. But I do not quite see how this will be applicable. The amendment of Government which is relevant now, for the mover will accept it, says: This applies to "all British subjects and servants of the Crown in any part of India; and all British

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subjects who are domiciled in any part of India wherever they may be." Suppose a man from Puri is settled in Hyderabad. He lives there and performs the marriage. He is a British subject. Then how can this law reach him when the limitation provided in the law is one year only. After the expiry of one year, there is no offence and no Court shall try it. I am not a lawyer myself but to my ordinary common sense it appears that the hand of the law cannot reach the man who is domiciled in an Indian Prince's State. Then again with regard to British subjects, they may go and perform a marriage in an Indian State. Suppose a British subject, either the husband or the wife, either of whom may have got his or her home in an Indian State, goes and performs a marriage in an Indian State and remains there for more than a year, then how can you try them? Therefore, both the provisions of the Bill as well as the ordinary law are ineffective, and there are no other amendments I think to consider; so it is practically useless to put this on the Statute-book. With these words, I do not know really what further to do about this Bill, though I certainly accept the principle.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): Sir, I am sorry to sound a discordant note, because I think that this Bill may well wait for some time more. The Mover, Mr. Lalchand Navalrai, has not placed before us the full facts; no doubt he may be obsessed with one or two marriages which were done in hot haste soon after the Sarda Act was passed in 1929.

Mr. Lalchand Navalrai: There have been any number of marriages up till now.

Mr. M. Ananthasayanam Ayyangar: Well, they seem to be peculiar to his Province. I have of course no objection to making it as strict as possible if this abuse is widely prevalent . . .

The Honourable Sir Nripendra Sircar (Law Member): I may inform you that there are dozens of cases so far as my province is concerned.

Pandit Nilakantha Das: I may say, particularly in Orissa it is numerous.

Mr. M. Ananthasayanam Ayyangar: But the number of such marriages certainly must be going down. After all, there cannot be very many persons who will wish to undergo the trouble and expense involved in crossing from one territory to another in order to perform such a marriage, —at any rate that is the position so far as my province is concerned. I submit, Sir, that a sufficient time may be allowed for this Act to percolate into the minds of various people. I might also say that since 1929 there has been objection voiced that the age ought to be put at twelve.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadian Rural): No, no.

Mr. M. Ananthasayanam Ayyangar: Mr. Gadgil from Bombay cannot question my experience in Madras. Therefore, so far as Madras is concerned, subject to what my friend Mr. Santhanam may say, I can certainly say that the ages of marriage of girls are very rapidly advancing. Possibly they may not wait till after the fourteenth year, but I am sure

that no marriages are celebrated before the twelfth year. (*Prof. N. G. Ranga*: "Question, question".) Professor Ranga has no children to marry, and therefore he "questions".

Mr. President (The Honourable Sir Abdur Rahim): Such personal remarks ought not to be made.

Mr. M. Ananthasayanam Ayyangar: I withdraw those remarks. Sir, in matters of this kind, society or the community has to be taken step by step. Marriages are celebrated on auspicious occasions. People would naturally like to celebrate a marriage with eclat on an auspicious occasion in the presence of a number of relations and friends, in their own place and so few people will put themselves to the inconveniences involved in running away from their homes in order to celebrate such marriages on an auspicious occasion outside their homes because they fear they might be disobeying the injunctions of religion by postponing these marriages but after all such cases are few in these advanced days, and the number of such marriages is rapidly going down. So, those few persons ought not to be persecuted if they go to some neighbouring territory in order to marry their children after the twelfth year. Sir, it is necessary to educate the conscience of those other States which are referred to by my friend, Mr. Lalchand Navalrai. It is not correct to say that some States welcome such marriages because they can make money out of it. But after Federation, if it is inaugurated, and which will, however, be opposed (Laughter), sooner or later, we have to come to an agreement with the States as regards the manner in which they have to make similar laws to regulate social or religious matters in neighbouring States. It is better to enter into such arrangements so that even there similar laws may be made,—whether the age is to be twelve or fourteen. I am sure that in the State of Mysore there is a legislation under which marriages ought not to be celebrated of girls below the age of twelve. There is only some difference in the exact age. In Mysore marriages below the age of twelve are on the lines of this Act prohibited.

An Honourable Member: What should be the age of the boy?

Mr. M. Ananthasayanam Ayyangar: Above eighteen is the age of the boy. Sir, we are trying to become Europeans by raising the age from eighteen to twenty-one. I would like that Honourable Members should consider if they should become Europeans for all purposes and not merely for the purposes of a Child Marriage Restraint Act.

Mr. Lalchand Navalrai: And reduce the marriageable age of girls from twelve to two?

Mr. M. Ananthasayanam Ayyangar: I assert that the number of such marriages is steadily going down but if you enact this Bill you will put an improper handle in the hands of certain persons and this Act will be used for the purpose of persecuting them. Sir, I had to defend one such case where there has been a faction between Reddis and Vaishyas in Damalcheruvu. Vaishyas celebrate the marriage of a girl above twelve, possibly between thirteen and fourteen. Not one member of that community ever took exception to this case of a marriage being celebrated at an earlier age, but a certain Reddi brought forward a complaint before the District Magistrate and produced a horoscope to show that a particular

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girl had not passed the age of fourteen but was only twelve, and he said that the birth register was all wrong. So that is the way in which there have been persecutions. It is only persons who have not been able to persecute their neighbours on any other known matter that in some cases they take this sort of thing up and place a case before a Court of law. In those circumstances, I ask if it is quite wise that even those persons who for some purposes stray into a neighbouring territory, and such cases must after all be few, should be persecuted in this manner. As my friend, Pandit Nilakantha Das, has said, after all one of the parties may belong to an Indian State. How long are you to wait to launch a prosecution? You cannot file a complaint after one year and nothing can be done so far as those people are concerned. I would therefore say that this measure is unnecessary now. Let us wait for some time until the States also come in and then we can educate the States also and enter into some arrangement with them. Those people also might not tolerate the marriages in these forms which are celebrated not in the places of their domicile or origin of either the one or the other party but somewhere else. Therefore, I would suggest that my friend might well wait until some arrangement is come to between ourselves in British India and the people in the Indian States.

Mr. N. V. Gadgil: Sir, I was surprised to hear my friend, Mr. Ananthasayanam Ayyangar, opposing the consideration of this Bill which only tries to extend the extra-territorial operation of the Act which has been already passed in the year 1929. I submit that you must look at this Bill from a more scientific point of view. If I speak a little longer with your permission, Sir, I hope the House will give me the patient hearing that, at any rate, this measure demands at this juncture.

When the Sarda Act, as it is popularly known, was passed in the year 1929, the two principles that guided the Government to support that measure were those which have been well laid down in the speech that was made by the Home Member at that time. Honourable Members will find it in Paper No. 1. It reads thus:

✓ "The first and the most reasonable conclusion, the inevitable conclusion in reference to the particular contents of this Bill is that there exists a *great and a corroding evil* in this country which is clamorous for a remedy. That evil, Sir, is one which afflicts, in the first instance, the most defenceless, innocent sections of the community, those who have the greatest claims for our protection. The evil is not only limited to that. It is not merely the large number of young girls who year by year either die or sustain serious bodily injury; but those who are acquainted with the case, those who have studied the evidence, those more particularly who have come into contact with the practical facts and the practical consequences, cannot contemplate them without—I put it no higher than this—the most serious searchings of mind, heart and conscience. It is not merely that generations after generations of young girls should be exposed to or should suffer from these evils, but there are dangers to the future generations of the country from which, if the country is not willing to adopt a remedy, it will undoubtedly suffer in its most vital and important interests.

We are convinced that this evil exists; we are convinced that the measure of Rai Sahib Harbilas Sarda is, at any rate, a first step in the direction of seeking a practical remedy. Where we find so great an evil and where we find a promising remedy, we feel we must support what we think to be right."

These are the two principles that were laid down when the Sarda Bill was under consideration. If I were to take the time of the House by giving certain facts and figures which I have found from the Census report and

which were the immediate consequence of the passing of the Sarda Act, Honourable Members will be surprised and in a way grieved to learn that that Act was practically of no use. I am giving the figures which are given in the Census report of 1931. The figure of wives below 1 year in 1921 was 9,065 and in the year 1931 the figure was 44,082. The figure of widows below 1 year in 1921 was 759 and in the year 1931 it was 1,515. The number of wives below 5 in the year 1921 was 2,09,397 and in the year 1931 it was 7,57,770. The number of widows below 5 in the year 1921 was 14,380 and in the year 1931 it was 29,365. The number of wives below 10 and above 5 in the year 1921 was 20,16,687 and in the year 1931 it was 42,00,534. The number of widows below 10 and above 5 in the year 1921 was 1,02,239 and in the year 1931 it was 1,05,482. Now, the number of wives between 10 and 15 in the year 1921 was 63,30,207 and in the year 1931 it was 72,69,208. Now, I will give you the grand total. The number of wives from zero to 15 in the year 1921 was 85,65,531 and that in the year 1931 it was 1,22,71,591. Now, what is this increase due to? As soon as it was known that the Sarda Act was to come into force, people became agitated and in this connection I shall only read what has appeared in an issue of the *Liberty* of Calcutta, dated the 30th March, 1930. Those representatives of orthodoxy who happen to be still here may carefully note it. This is what the paper says:

"A matrimonial wave is just passing over the country. Bride in embryo is being married to groom in the cradle. The Sarda Act is coming into force and the pig-tailed Pandits have sanctified juvenile to stave off perdition. Poor girl just learning to suck the feeding bottle being carried over to the wedding bower. Urchins are being snatched from the arms of their playmates to don the garb of a groom. As an emergency measure the elastic Pandits have issued an edict whereby they have certified the month of *Chaitra* to be the proper season for matrimonial alliances. Our Pandits have extended the limits this year. We are sure before the 1st April comes on there will be hardly left single unmarried man or woman in India."

That was in the month of March, 1930. Now, from January, 1930, to April, I must give some figures about marriages from Bengal as the Honourable the Law Member has said that the evil there was very great. The average in the district of Bakarganj was 192—1929—305. I am talking about Muslims. In the month of January, 1930, the number was 490. In February it was 1,529. Latterly in March it was 8,782. That will show the net result of the passing of the Sarda Act.

Now, I am coming to Madras. The reference to these figures will be found in the Census report, Vol. I. In Madura 200 Vakils got all their children below 10 married. As I said at the beginning, we must look at this question from a more scientific point of view. I do not want to reiterate the platitudes which have been reiterated many times that the child marriage is bad, that it shatters the health of the female and so on and so forth. We must remember the basic thing, namely, that the female, in fact, is definitely better equipped by nature for survival than the male. But, then, this advantage is probably neutralised in infancy by comparative neglect and in adolescence by the strain of bearing children too early and too often.

Now, if we go further and study facts and figures as regards the percentage of males and females and if we want that this race, which term I include both Hindus and Muhammadans, should survive and survive in a fit and proper manner, I think the sooner we raise

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this age of marriage the better. In this connection, I may point out with your permission to the House that certain statistics were collected in the State of Baroda and some of the conclusions which were drawn from those statistics are really worth noting. In the matter of collecting statistics, 29,000 families were taken into consideration. The general average of child birth per marriage was 4·2 and the survival was 2·9. But if we take the figures of those girls married between 20 and 30, the birth average was 4·3 and the survival, 3·1. If we take girls married after 30, it is 5·1 birth and 3·6 survival. So one conclusion is inevitable and that is that if females are married not at an early age but later on, then the survival of children is greater. But if we were to compare these statistics with what we get when girls are married below 14 or 15, we find the infant mortality very much. So, I submit, from these few statistics that I have placed before this House, it is evident that this evil is very great and it is corroding into society and the remedy that was then proposed was embodied in the Act known as the Sarda Act in 1929. Since the passing of that Act, this evil has not decreased. On the contrary many efforts are being made to avoid the consequences that are contemplated in this Act. My Honourable friend, Mr. Lalchand Navalrai, referred to his province and I am also referring to this Province so that the House might understand it in its proper perspective. This is what the Government of Sind writes:

“The most serious defect in the Act is that it does not penalise a child marriage between British Indian subjects contracted outside British India. All such persons in Sind who propose to act in contravention of the Act, proceed to the territories of Khairpur or Kalat States and celebrate the marriage there. These places are so easily accessible to the residents of this Province that the Act has ceased to be effective. It would be futile to amend this Act in any way unless it is given an extra-territorial operation, on the lines of section 4 of the Indian Penal Code.”

Then, Sir, I may also refer the House to the judgment that was delivered by the Bombay High Court in 37 Bombay Law Reporter. His Lordship, Sir John Beaumont, the Chief Justice, in the course of his judgment observed:

“Where the court is dealing with an act committed outside British India by an Indian subject which would be an offence if it had been committed in British India, section 4 of the Indian Penal Code as it now exists, constitutes the act an offence, and it can be dealt with under section 188 of the Criminal Procedure Code. Cases arising under other Statutes which contain a provision similar to section 4 of the Indian Penal Code (of the Indian Railway Act, 1890, and the Indian Telegraph Act, 1885) can be similarly dealt with. But the Child Marriage Restraint Act, XIX of 1929 contains no such provision, and the prosecution must prove that the Act makes penal a child marriage performed outside British India.....In my opinion, the Act is limited in its operation to British India and only strikes at marriages contracted in British India.”

Therefore, Sir, it is abundantly clear that the evil has not decreased, on the other hand, it has increased. Similarly, it is abundantly clear that the remedies as they exist today in the Act as it stands today are not sufficient to meet these breaches of the law. I, therefore, submit that the Bill that has now been moved by my Honourable friend, Mr. Lalchand Navalrai, only meets a part of the evil. In fact it would have been far better if the House had an opportunity to take into consideration the Bill that was introduced by my Honourable friend, Mr. B. Das. If you, Sir, permit a reference to the Bill which Mr. B. Das was going to move for consideration

today, you will find that that Bill contains provisions which adequately, in my opinion, meet those breaches which we have found by experience during the last seven years in the working of the Act. In fact, I should have considered it to be the duty of the Government

Mr. Lalchand Navarai: I do not think my Honourable friend, Mr. B. Das, in his proposed Bill refers to this question of territorial jurisdiction. Therefore, that is shut out.

Mr. N. V. Gadgil: In fact I consider that it is the duty of the Government, having had the experience gained in the working of the Act for the last seven years, that they should come forward with a Bill which would remove all these difficulties. (Hear, hear.) But Government do not seem to be very anxious to remove the defects in the existing law. I would make a present to the Government of the views expressed by Miss E. F. Rathbone, M.P., about the attitude of the Government of India. She says in her book "The Child Marriage, the Indian Minotaur":

"The necessity for enforcing respect for law and order has recently been much in the minds and on the lips of those in authority all over India. But laws concerning social reforms are apparently an exception, being intended rather to quiet the conscience of the legislators and their critics at home and abroad than to be obeyed. The official attitude was indicated after the first recorded prosecution under the Act. The offender who had given his ten year old daughter in marriage in defiance of the warning of his village headman, was sentenced to one month's imprisonment—the maximum term permitted under the Act. Instantly the Punjab Government telegraphed to order the man's release."

That has all along been the attitude of the Government. I really wish that the Government came forward with their own measure on the lines suggested by Miss Rathbone in her book which are also practically embodied in Mr. B. Das' Bill. The present Act makes the offence a non-cognisable one and the period of limitation is laid down as one year and it is only punitive and the maximum fine of Rs. 100 does not operate as anything like a hindrance or prevention to those who really wish to marry their children below 14 or 18. In fact, I may even tell the House that this amount of fine is provided in the contract of dowry. Whenever a contract is made for marriage and when the parents know that this is against the law, they usually contract that in case any one of their relatives, or friends or foes files a prosecution under the Sarda Act, the fine should be paid either by the parents of the bride or the parents of the bridegroom. The real evil can only be checked if the Courts whether of the District Magistrates or of the District Judges are empowered to issue preventive injunctions. That may curtail the evil to some extent. But the real and radical remedy will be to incorporate a provision which will declare that any marriage celebrated in contravention of the provisions of this Act shall be invalid. That is the only real and radical remedy.

Then the third point referred to is about the non-cognisability of the offence. If the position of Government be that if the evil is so great and so corroding and if the remedies are really promising then Government are bound to support such a measure, here is an offer. The case that the evil is great is already made out inasmuch as the Act is already on the Statute-book. That it is corroding and widespread and very extensive, I believe, I have been able to prove to the satisfaction of the House. Here are the remedies. Some are contained in the Bill that was to have been moved by my Honourable friend, Mr. B. Das. It is up to Government to show that

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they act up to this old principle. It is no good saying now in the year of Grace 1938 that it is going to offend the religious scruples of this section or that section. I submit, Sir, that religion has nothing to do with marriage laws. (*Several Voices*: "Question.") But even if it has something to do with it, then so far as this Government is concerned as it stands today, I might point out what Lord Lansdowne said long ago:

"If any practice is inconsistent with public safety and condemned by every system of law and morality in the world, it is religion and not morality which must give way." (Cheers).

I therefore submit, Sir, that this is an occasion in which the conscience of Government is put to the test. The mere acceptance of the Bill which has been moved by my Honourable friend, Mr. Lalchand Navalrai, is not enough. I should like to have an assurance from Government that not only will this Bill be not opposed but that as early as possible Government will come forward with a measure of their own to remedy the evils which have been pointed out in the course of the debate today. Sir, I support the motion.

The Honourable Sir Henry Craik (Home Member): Sir, as reference has been made to the attitude of Government, I should like to make it clear at the outset that the Bill which we are discussing today has the sympathy of Government and that they will support the motion for consideration, but will move amendments on one or two minor points which I understand will be accepted by the Honourable the Mover of the Bill. Sir, the last speaker in the course of his speech, evidently composed with reference to Mr. B. Das's Bill, tried, as is often the attitude of the Benches opposite, to put the blame on Government for not doing more to close the gaps in the original Act. May I remind the Honourable Member that if he and his Party are really so eager to close those gaps, how is it that Mr. B. Das's Bill, which Government are ready to support and which has had two opportunities of coming up before this House and might, so far as it lies within Government's powers, have been passed by this House on either occasion, has dropped because the Honourable Member who devised the Bill did not take the trouble to be here? That is slightly inconsistent . . .

Mr. M. Asaf Ali (Delhi General): He is engaged in Government work in Orissa. It is not a case of voluntary absence at all.

The Honourable Sir Henry Craik: If he is really keen about his Bill, he could surely have arranged to be present, moved his own Bill and secured its passage. And I am certain that I am not wrong in saying that if he had moved that Bill it would have been passed by this House by this evening. This is the second occasion on which the Bill has been on the Order Paper and he has not been present on either occasion to move it.

I have only one other remark to make and that is that I am frankly astonished by the attitude taken up by the Honourable gentleman who spoke last but one, Mr. Ayyangar. I have always suspected the Honourable Member of being at heart a really hard-boiled Tory; and now I know my suspicions are correct. I noticed that in respect of another piece of legislation of which I was in charge relating to the peasant debtor, the Honourable Member made it perfectly clear

Mr. M. Ananthasayanam Ayyangar: Sir, is the Honourable Member in order in referring to what I said on another Bill in the Select Committee?

The Honourable Sir Henry Craik: I did not mention the Select Committee at all. From his attitude in this House the Honourable Member made it perfectly clear that he had very little sympathy with the peasant-debtor just as he has made it clear today that he has little sympathy with the child bride. According to the Honourable Member's speech today, it is perfectly justifiable for a parent who can afford the trouble and expense involved in jumping across the border of the nearest Indian State to marry his infant daughter to somebody else. In other words, the rich man who evades this law ought not to be punished while the poor man who cannot afford the trouble and expense of evading it is to be punished. That is the Honourable Member's attitude. I must say that that seems to be an astonishing attitude to take up and it certainly is not the attitude that Government propose to take up. And it would be a reproach to this House, extending far beyond the walls of this Chamber and far beyond the bounds of India, if the House as a whole were to take up the attitude advocated by the Honourable Member.

The principle that child marriage is undesirable is enshrined in the Sarda Act. If we find that there are gaps in that Act which make evasion possible, surely it is our duty to do all that we can and as quickly as we can to close those gaps.

Pro. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadian Rural): Why not Government come forward with a Bill?

The Honourable Sir Henry Craik: Because private Members have come forward with Bills and though we have given them every possible facility, they do not take the trouble to come up and move them. If private Members time after time draw up Bills which Government are ready to support, why should Government put forward legislation to the same effect? If we had known that they would not be there we would have brought forward a Bill of our own and Government would be perfectly willing to support any Bill, provided it has the clearly expressed support of the communities affected, that is designed to make the Sarda Act more effective.

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, Sir Cowasji Jehangir (one of the Panel of Chairmen) in the Chair.

MOTION FOR ADJOURNMENT.

TRANSFER OF CERTAIN VILLAGES IN MARWARA DISTRICT TO THE ADMINISTRATIONS OF JODHPUR AND UDAIPUR STATES.

Mr. Chairman (Sir Cowasji Jehangir): The adjournment motion moved by Mr. Mohan Lal Saksena—"to move the adjournment of the business of the Assembly for the purpose of discussing a definite and specific matter of urgent public importance of recent occurrence, namely, the transfer of certain villages in Marwarra District from the Government administration

[Mr. Chairman (Sir Cowasji Jehangir).]

to the administrations of Jodhpur and Udaipur States without consulting the wishes of the people of the area or the Legislative Assembly. The communiqué announcing the decision of the Government was issued on the 2nd February, 1938"—has been disallowed by His Excellency the Viceroy on the ground that the motion cannot be moved without detriment to the public interest.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. N. M. Joshi (Nominated Non-Official): Mr. Chairman, the Child Marriage Restraint Act was passed in 1929. I have no doubt that since the passing of that Act a large number of child marriages have been prevented. At the same time it will be admitted by all that although the Act has been on the Statute-book for more than 8 years, the total number of child marriages taking place in India has not been reduced considerably. Child marriages are taking place in India as openly as before, and in almost as large numbers as before. As has been pointed out by previous speakers, this is due to several defects that have been allowed to remain in the original Statute of 1929.

In the first place, although when a child marriage takes place it is necessary to punish the offender, what is more important from the point of view of the community is the prevention of the marriage itself. Unfortunately it is a doubtful point whether the Courts in India have got powers to issue injunctions when they hear of a child marriage taking place. In Bombay, the Courts have issued injunctions, but in other provinces injunctions have not been issued. If child marriages are to be prevented this defect of the law must be remedied.

Then, it has been made obligatory upon the Courts to take up cases of breaches of the law only upon complaint being made. It is not easy to get people to come forward openly to make complaints about breaches of law, by their neighbours or by the people in the same village or town. Similarly, the man who has to make a complaint has to execute a bond, and in case he fails in his case he loses the amount of the bond. Under these circumstances only a few cases come to the Court. We must, therefore, amend the law enabling the Court to take cognisance of cases of breaches of the law on private complaint.

There is another very serious defect. If an illegal marriage takes place, there is no power given to the magistrate to prevent consummation of that marriage or to prevent the husband and the girl living together after the marriage. It is necessary that the magistrate should be empowered in these cases if they consider it to be necessary to prevent the girl and the boy living together after the illegal marriage takes place.

The Bill under discussion has also exposed a very serious difficulty. A very large number of people avoid the law by going to Indian States. I was glad to hear that the Government of India propose to support this Bill. I have no doubt that a large number of child marriages will be prevented if we pass this Bill. The passing of this Bill will no doubt be of some use, but in spite of the passing of this law, a very large number of child marriages will still take place. It is, therefore, necessary that the various defects of this law should be remedied and I feel that the Government of India should bring forward their own measure for the removal of

those defects. It was a matter of great regret to me that my Honourable friend, Mr. B. Das, is not present today to proceed with his Bill

An Honourable Member: Unavoidably, they say.

Mr. N. M. Joshi: It may be unavoidable, but still it is a matter of regret to me and we are all sorry that he is not in his place: I am not blaming him. The allowing of these defects to continue has very serious effects. In the first place the law which we have passed is made a dead letter. The good that we expected to come out of the legislation is not secured. Not only that, but the people as a whole have a sort of contempt for the legislation. The results are more serious. When a Government passes legislation and allows such legislation to be openly flouted, it creates a contempt for law and order in that country. Let me assure my Honourable friend, the Home Member, that the preachings of few communists do not produce that contempt for law and order in the country as allowing legislation on the Statute-book and permitting the people to flout it openly, does. A few communists cannot produce that contempt for law and order in the whole country; but if you pass a law regarding marriage with which each individual in the population is concerned, and if you allow that law to be openly flouted, you allow contempt for law and order to be produced in the minds of the whole people. I therefore suggest that, whether it may be the fault of my Honourable friend, Mr. B. Das, or not, it is the duty of the Government to remove the defects in the law and prevent child marriages taking place and also to avoid the serious evil of contempt for law and order being produced in the whole country. I hope the Government of India will not be content with merely supporting the Bill of my Honourable friend, Mr. Lalchand Navalrai, but will take the earliest opportunity to bring forward a measure removing the defects of the Child Marriage Restraint Act.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I most reluctantly, but as a matter of duty, rise to oppose this motion.

Mr. Lalchand Navalrai: Wholesale?

Syed Ghulam Bhik Nairang: You will see it presently. It is not that I oppose the motion wholesale as my friend suggested. As far as the non-Muslim communities of India are concerned, if they consider the existence of an enactment, like the Sarda Act or like the one which the Sarda Act will become if the present Bill is passed, good for themselves, I have no objection, but as far as the Muslim community is concerned, I am positive that the law, since the day it was on the legislative anvil, has been a thorn in the side of the Muslim community. Perhaps it will be within the memory of some of the older Members of this House,—I am sorry my friend, Sir Abdul Halim Ghuznavi, is not here,—that while the Sarda Act was under consideration in this House, a good deal of agitation took place against the application of that measure to the Muslim community. In fact, originally, the Bill was introduced by its author, Rai Bahadur Harbilas Sarda only for the Hindu community, and as the measure was applauded by most people as embodying a very desirable reform, some of the Muslim Members of this House of that day, without giving sufficient thought to the subject, felt tempted to ask the Mover of the Bill to include the Muslim community as well. That was how, although originally the sanction of the Governor General was granted to the Bill as only affecting the

[Syed Ghulam Bhik Nairang.]

Hindu community, the Muslim and other communities came latterly to be included in this Bill. When this fact came to the knowledge of the public, an agitation was started by the Muslim community and maintained up to the very day that the Viceroy gave his assent to the measure. It was in the teeth of opposition on the part of the Muslim community that that Bill was passed, and a very influential deputation was taken to Lord Irwin praying that he should not give his assent to this measure. I was a member of that deputation; my late lamented friend, Maulana Muhammad Ali, led the deputation; and my friend, Sir Abdul Halim Ghuznavi,—if he had been present now he would have borne me out,—was also one of the members,—it was a very representative deputation, because people from all parts of India had been included in it. Of course, the mistake that had been committed by some Muslim Members of this House at one stage of the legislation could not be rectified, and His Excellency the Viceroy gave his assent to the Bill.

But, Sir, ever since then there have been many amending Bills put in by Muslim Members to the effect that the Child Marriage Act should not apply to the Muslim community, and even now we have a Bill in this House by Mr. Kazmi to the same effect. Under the circumstances, I submit it is impossible for the Muslim Members of this House to pass a silent vote on this matter, and we have to make it clear that, with the exception of some of those who may not be sufficiently well informed about the Muslim law or may perhaps be anxious to court applause as being advanced people,—or may be influenced by some other such reason, the Muslim community as a whole cannot accept this measure. The fact remains that the community as a whole has all along consistently opposed not only the original Child Marriage Bill when it was only a Bill, but also since it has become an Act.

Sir, the position is this, that the Muslim law of ~~Shariat~~ is complete in itself. It settles for all time for the Muslims when they can marry, how they can marry their children and at what age, who is authorised to give his consent to a marriage, and all the details are laid down in the Muslim law, and it is unthinkable, nay, it is absolutely intolerable for a Mussalman to be told that he can be punished as a criminal for doing what he is entitled to do under the Muslim law. That is a thing which is galling to every Muslim, and that is why the Mussalman sentiment is against this measure. We have got definite rights in the Shariat. It is an insult to a Muslim's religion to be told that he should be punished as a criminal for doing what he is entitled to do under his personal law. Therefore, I submit that as far as the Muslim community is concerned, this Bill must be opposed in this House. Of course, as far as the Hindus and other communities are concerned, I have no objection to their supporting the measure.

Mr. M. Ghiasuddin (Punjab: Landholders): Mr. Chairman, as the previous speaker, for whom I have the greatest respect and very great personal regard, has mentioned the Muslim community as a whole, I feel it is my duty to say something on the subject. I am speaking in this House as a Mussalman. I have followed this religion ever since I can remember, and I hope to die as a Mussalman.

An Honourable Member: A very pious hope.

Syed Ghulam Bhik Nairang: Will my friend say if he speaks as the elected representative of the Muslims in this House?

Mr. M. Ghiasuddin: I am an elected representative of Mussalmans as well as of non-Muslims. That does not take away from me the right of speaking for Mussalmans. I think I have a perfect right to speak as a Mussalman on this subject.

Sir, let me at the outset congratulate my Honourable friend, Mr. Lalchand Navalrai, for his public spirited action in bringing forward this Bill. I think it is a most beneficent measure, and I can further say that these social measures have been passed by the legislatures of all the countries in the world including the Moslem countries. ("Hear, hear" from Congress Benches.) If Kemal Ata Turk had been here, he would not have shown opposition to a social measure like this. I think he is as good a Mussalman as any other Honourable Member sitting on these Benches. Sir, it is generally said that any measure of social reform is an interference with religion. Now, I will take a small example. Our religion forbids us to do many things,—like taking ham or bacon or drinking wine and other alcoholic drinks

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): Or shaving the beard! (Laughter.)

Mr. M. Ghiasuddin: But there are things which are permissible. For instance, we are permitted to eat melons or other fruits by our religion. Now, if there is any epidemic in a particular city and the health authorities there forbid eating those fruits—in fact if they destroy those fruits, according to this very narrow interpretation of some Honourable Members, it would be interference with religion. Even if we are forbidden to eat melons at that time, for the sake of our own health, such prevention of eating melons would be regarded as interference with religion according to the very narrow view of some of my friends. It is a question of health. It should be looked into scientifically.

All I can say is that this evil of child marriage does exist among Muslims quite as much as it does among non-Muslims. Mr. Gadgil quoted from a book written by Miss Rathbone, Member of Parliament. If my memory serves me aright, she gave a particular instance of this evil of child marriage prevailing among the *Julahas* of Patna in the Bihar province. There, the social evil is very much prevalent and the health of our community is being affected. Some Honourable Members may go back and say that they have upheld the prestige of their religion by opposing this measure but do they know what the effect will be on the health and happiness of our community. Our girls of 8 and 9 are given in marriage. Their health is being affected by premature child birth. I know these cases are prevalent in our country-side, in almost all our villages and the health of our young girls is being undermined and yet some Honourable Members in the name of the prestige of Islam come and oppose reforms like this.

Here I may draw the attention of Honourable Members to one point and that is that our girls and especially poor girls are sometimes given in marriage to perverted saddists and the treatment that these girls receive at the hands of these people is not to be repeated in this Honourable House. It is enough to rouse the indignation of any decent man. I appeal to these Members, in the name of their religion, to save these poor

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girls from the hands of these saddists and follow the example set by so many Muslim countries. For instance, take the case of Albania. Many good laws are promulgated there. Bigamy is forbidden there. I am not advocating that measure here but a good many other Muslim countries, such as Turkey, Egypt, have similar laws. If Mussalmans in this country oppose a reasonable reform like this, they will soon realise that they have brought a blot on the name of religion. I appeal to them not to take too narrow a view of religion.

Our religion is not meant for one country alone. It is meant to embrace the whole world. Different climates have different effects on the health of people. A girl in Africa or Arabia may attain the marriageable age earlier, that is at 7 or 8. In England, Norway and Sweden, the marriageable age is very much higher. Our religion does not say that you must marry at a certain age. To allow girls to be married when they are not physically fit for marriage is a social crime and I hope that Honourable Members of this House will support the commendable measure that has been brought forward by Mr. Lalchand Navalrai, although I agree with my Honourable friend, Mr. Joshi, and several others that this measure does not go far enough. The Sarda Act is a dead letter and this is a corollary on the Sarda Act. I beg the Government to take the matter in their own hands. Seeing the sympathetic attitude of the Honourable the Home Member, I think the Government will bring forward a comprehensive measure which should protect the health and happiness of our sisters and daughters.

Seth Govind Das (Central Provinces, Hindi Divisions: Non-Muhamadan): I rise to support this motion. I want first to congratulate my Honourable friend, Mr. Ghiasuddin, for his very fine speech. He has proved that this question is not a communal question at all. It is a question which deals with the entire population of India and nobody can deny the fact that after the Sarda Act was passed the evil of child marriage in the whole of India has been reduced to a very great extent. The principle of such kind of legislation was accepted by the Indian Legislature when Mr. Sarda introduced that Bill and it was passed with the support of Government. The present Bill deals simply with one aspect of the child marriage and that is the marriages which are taking place in Native States. Everybody knows that we who come from Rajputana and who have migrated from different States into British India generally take advantage of these Native States and especially my friends from Bikaner and Jaisalmer to which my ancestors belonged. When they return after marrying to British India there is no penalty upon them. On behalf of the social reformers in Rajputana and on behalf of the Maheshwari community and on behalf of the All-India Maheshwari Mahasabha of which I was President twice, I support this Bill. I hope that after this Bill is passed this evil, especially among Marwaris in British India, who generally go to the Native States and marry their children there at a very young age, will disappear. I know that there are some conservatives amongst Rajasthanis who are opposed to this Bill but when Sarda Act is on the Statute-book and when the people want to take undue advantage of the present position, it is but natural that such a measure should have been brought up. I whole-heartedly support this measure.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Mr. Chairman, unfortunately certain allegations have been made by one Party against the other. Persons who are supporting the Bill consider persons who are opposing the Bill as backward. The persons who have come forward consider themselves to be social reformers and consider the persons who are opposing it as being retrograde and backward.

Mr. Lalchand Navalrai: I am a reformer as well as an orthodox.

Qazi Muhammad Ahmad Kazmi: I do not mean that orthodoxy is equivalent to backwardness, but at least my friends not only
 3 P.M. consider the persons who are opposing the Bill as orthodox but backward also. (Voices: "No, no.") My position is this that this has nothing to do with any communalism; just as my friend, Seth Govind Das, has said, "I do not consider that this is a communal matter", so I also consider that this is not a communal matter, I also consider that it is a forward measure, but at the same time we have to consider the limits up to which the State can interfere in the personal laws of individuals. That is the question. So far as Muhammadans are concerned, I think they always prefer marriages that take place after maturity. No person supports any practice to the contrary, but the question comes in when we say that we will make the marriages of minors punishable as a crime. We say that we cannot permit that; the State has got no right to come forward and say that anything which is valid according to the personal law of a particular community is a crime according to the law of the State. That is the inconsistency which makes one come forward and protest against any such legislation. I do not mean to say that we approve of the marriages of minors; we are as much in favour of the marriages of adults as any other community can be, but we cannot tolerate any law which makes a thing which is permissible and legal and perfectly valid according to our personal law to be punishable as a crime under the law of the State. That is the position of Mussalmans so far as the present law is concerned.

Now, what has been the effect of the Sarda Act? My friend, Mian Ghiasuddin, and other people have come forward and even said that it is only the poor people amongst whom marriages take place amongst minors, but I would only remind the House—I do not want to mention names, but it is a fact that just when the Sarda Act was on the anvil of the Legislature a big taluqdar of Oudh holding a responsible position in the Government of the United Provinces married his son to the daughter of an eminent barrister of Patna who also had the honour of occupying a very high position in the Government of India. (Interruption.) I am sorry to say that the other fact may be wrong, but so far as the question of the other gentleman, the taluqdar of Oudh, is concerned, it is correct. Now can we say that it was a dereliction of duty on the part of a big man, can we say that he was an irresponsible person, can we say that he was an ignorant person, can we say about him that he did not know the medical laws or the laws of hygiene? Now why do some people break this Sarda Act and try to evade it? It is because under certain circumstances it becomes necessary that minors may be married. Consummation of course may take place afterwards. What I want to say is that whenever there has been any necessity people have come forward, even in spite of this

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Act, to marry minors, that it has been a dead letter in practice, and that it is not only in that sense that we oppose it but also, in the present form, as pointed out by Mr. Joshi, it is used more for the purpose of blackmailing people in order to terrify them rather than for any salutary purpose. Some people feel tempted to come forward with a sum of one hundred rupees and take the risk and only thereby try to make some money out of the people who are the unfortunate victims of their caprice. So in practice this has been a dead letter and we are opposed to its principles because it enacts certain things being a crime which are valid according to the provisions of the Muhammadan law, and we do not want to see anything that is valid according to the Muslim law being made invalid by our own hands—a thing which is quite consistent with the feelings of the Muslim community we do not want to be made invalid by an Act of the State, and it is for these reasons that we are not in favour of this Bill. So far as the present amendment is concerned I think there is not much to be said,—it is only an extension of that principle, it is a purely consequential thing. What we want is to attack the principle itself: it was in connection only with the enunciation of those principles and because of the speeches of some Honourable Members that I also have put forward the point of view of the Mussalman community in this matter.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I think my friend, Mr. Ananthasayanam Ayyangar, has rendered a distinct service by his amazingly disgusting statement in connection with this subject. Lest there should be some misunderstanding on the part of the House as regards the position of my Party, I may as well state to the House that the Congress Party as a whole is entirely in support of this measure and of every measure of social reform (Hear, hear) and not only with respect to this measure of Mr. Lalchand Navalrai, but even if Mr. B. Das's measure had come forward, it was already decided by the Congress Party that that measure also should be very strongly supported.

Now, what is the position with regard to this measure? If we start dividing ourselves into so many compartments, into a Hindu compartment, a Muhammadan compartment, a Parsi compartment, a Sikh compartment, a Christian compartment, then I want to ask you where we will be? In this House not a House of Legislature for the whole nation, or is it not? I can understand that so far as our particular religious tenets are concerned, there can be a meeting of Pandits, Maulanas, Dasturs and Modys, of Padris, I have no objection to that, and I personally have not got the least right I think to enter any meetings of learned men, but when you come to this House, whatever the considerations may be, I take it that we must first and foremost consider it from the general utility point of view and from the national point of view and the general scientific point of view. Now, since the principle of the Sarda Act has been accepted and it has been made into law—I do not want to go into the scientific side of the question, indeed at the time when that Bill was on the anvil, the medical profession all over the country supported the Bill whole-heartedly; there was a session of the All-India Medical Conference at that time, when your humble servant, myself, happened to have had the honour of being the President of that body. It was under my presidency that the All-India Medical Association, wherein practically all

the distinguished medical men from the country had gathered together, passed a resolution supporting whole-heartedly the measure called the Sarda Bill.

Even in those days I thought that the Sarda Bill did not go far enough. However, I am of the temperament that if we can leave the place a little better than we found it, we should be happy. If we can improve the laws of the country to some extent, then for the present we ought to be satisfied. Therefore, that measure was, to my mind, a great advance on the existing order of things. But since then, as has been pointed out in this House, that law has become an absolute dead letter. I must say that the position that was created was absolutely ridiculous because we are all given to understand that we must respect the law. But the Government itself somehow or other did not take care to see that that respect was shown to this law which it deserved. Take a place like the Kalbadevi Road, Bombay, where many Marwaris come from different States and are living there side by side with the local people of Bombay. The real British people cannot go to either Jaipur or Jodhpur or any of the 625 Indian States for the purpose of contracting a marriage but the next door Marwari gentleman or may be somebody else can take his child of 8 and get her married over there and come back and live by the side of the residents of British India and say: "See! You cannot marry your child of 8, but I have gone into the neighbouring State and have got my daughter married and the law cannot do anything". We must say that this state of affairs so far as this law is concerned is reducing it to mere farce.

I am very glad to know that the Honourable the Home Member has spoken so forcibly in favour of this law. If nothing has been done by the statement of my friend, Mr. Ananthasayanam Ayyangar, it has certainly put the Honourable the Home Member on his mettle and he has declared on the floor of the House that he will support this measure whole-heartedly. I was very glad to hear when he said that if Mr. Das had been here, then he expected that by the evening Mr. Das' Bill would have become a law. I can tell the Honourable the Home Member that nobody was more pleased than I was by hearing those remarks. What is, more, not only myself but the whole of my Party, which is dedicated to social reform, could not be more pleased than to hear the statement of the Honourable the Home Member on the floor of the House.

Well, Sir, it is no good talking of religions. In my opinion all religions are meant not for human misery but for human happiness. If a religion is meant for human misery, then I take it that it is not a religion but a superstition. I have nothing to say against Islam or Hinduism or any other religion. All the religions that were started, I have not the least doubt, were started as pure religions. But you cannot deny that there is any religion in which degeneration and superstition have not crept in. If I had the time I could prove to you to the hilt that this early marriage in the Hindu community does not form part of the Hindu religion at all. To give you only one instance. Let anybody with a smattering of Sanskrit read those pious Mantras which are recited by the bridegroom to the bride and let him tell me that they are meant to be recited by a bridegroom of 8 or 10 to a child of 2 or 3. If this statement is not convincing, then nothing can convince those who refused to be convinced. It is not possible to say that all these religions have been saved from degeneration,

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disintegration and superstition and what passes for religion today, does not make any appeal to me at all. I am however prepared to abide by the so-called religion if the superstition of today is willing to follow the modern methods and the modern times, whether it is in scientific matters or hygienic matters, in order to insure the happiness of the human beings. But if they cannot do that, then so much the worse for these so-called religions or superstitions. The sooner you see the end of them the better.

I hope, therefore, that such like considerations will not prevail in the House. When a measure comes here for legislation, let us think about it independently and honestly and more for the happiness of the human beings for whom we are responsible and for which business primarily, I take it, we are sent here. We are not here to guard this particular religion or that particular superstition. From that point of view I extend my whole-hearted support to this measure. At the same time, I must mention that in my opinion the measure does not go far enough. I am looking forward to the time after the assurance given by the Government on the floor of the House that they will support any kind of measure which may be brought forward in this House in order to eradicate this evil of child marriage. If the Government is not prepared to bring forward a measure to this end, I can assure them that after this encouragement that has been given today by the Honourable the Home Member, there would be found any number of private Members who would be prepared to bring their private Bills. I hope the Government will continue to give the same support that has been given to this social measure by the present Government, thanks to the Leader of the House, Sir Nripendra Sircar, and his Colleagues. I hope that this measure will pass without much trouble.

The Honourable Sir Nripendra Sircar: Sir, I think it is but right that I should give to the House a description of myself. I think I am a reactionary, I am orthodox, I am conservative and at the same time a very progressive reformer of the best type. This fortunate combination enables me to adapt myself to the occasion and to adopt every angle of vision. But possibly on this occasion many of the questions which have been discussed and which are affecting religion or social progress or other matters do hardly arise because, after all, whatever the Hindu law or the Muslim law or the Buddhist law may say, the Act of 1929 is on the Statute-book. As a result of that Act, certain marriages are preventible or, at any rate, they are punishable. So far as my Honourable friend, Mr. Lalchand Navalrai's Bill is concerned, the sole point of it is that having passed the measure of 1929, and having enacted that such a marriage should be prevented, will you allow that to be avoided by the simple expediency of travelling a few miles across the borders of British India? That is the very narrow point.

I was told by my Honourable friend, Mr. Ananthasayanam Ayyangar, that these occasions are very rare. Possibly, according to him, they do not take place at all. I have not much experience of Madras, but I refuse to judge Madras by Mr. Ananthasayanam Ayyangar. So far as my own province is concerned, I think the House will pardon me if I tell them that I have a fairly distant relative who owns some property in Chander-nagore, which is only 22 miles from Calcutta. Now, before the Sarda Act those houses had hardly any tenants. But as soon as the Sarda Act was

passed and brought on the Statute-book, he was getting a very handsome revenue as rent from those premises which are occupied by people who travel to Chandernagore for these marriages.

It is quite true that recently the French Government has stopped this so that Chandernagore is no longer a safe spot. But this does not apply to the various Indian States where people can resort to for the purpose of avoiding the provisions of this Act. If that is so, I really cannot understand how there can be any opposition to the Bill which has been brought forward by my Honourable friend, Mr. Lalchand Navalrai. I notice that when friends fall out, they use very kind language, for instance my Honourable friend, Dr. Deshmukh, when speaking of his colleague, Mr. Ananthasayanam Ayyangar, said that his language was amazingly disgusting. Even if that expression is parliamentary, we on this side, not being regarded as very intimate friends of Mr. Ananthasayanam Ayyangar should hesitate to use that expression.

It is said that this Act stands against some religion. I refrain from referring to the Muslim religion. I know nothing about it. But it is rather fortunate that the State intervenes occasionally in matters concerning the Hindu religion. I do not think today any Honourable Member of the House, possibly with the exception of Mr. Ananthasayanam Ayyangar, will get up and say that we ought to abolish the law which makes the forcible immolation of a widow a crime because that is against religion. Then there is another practice which the Government have stopped, fortunately or unfortunately that is for the House to decide. I believe some of you are aware that, at any rate in the province of Bengal, there was the custom in olden times of dedicating the eldest born male child to the Ganges. Those of you who have read Bankim Chandra Chatterjee's famous novel, "Kapala Kundala" will remember that. I happen to be the eldest male child. Possibly some of my friends will say that if this custom had been in force, the world would have been all the better for it. (*Some Honourable Members*: "Not at all".) But I have my own personal feelings in the matter. Sir, I do not think, really having regard to the very narrow but very useful provision which my Honourable friend wants to establish by this Bill, I should take up the time of the House further. I whole-heartedly support this motion.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, at the very outset, I want to inform the House that I am entirely in favour of this measure of my Honourable friend, Mr. Lalchand Navalrai. The real position has been put in a nut-shell by the Honourable the Leader of the House. The question before the House is really not a wide one or a comprehensive one on which my Honourable friend, Mr. Gadgil, and others have taken the opportunity of dwelling. The real question before the House is this. There is already a measure on the Statute-book. We have allowed that Act to be passed in this House. We have made child marriage a crime. That provision is there. Having done that, shall we allow persons to adopt means to avoid that and in that way allow the purpose of the Act to be defeated. That is the sole question before the House and in deciding a question like that, one has not got to go into the philosophy of any religion or into the ethics of any religion. In fact, I have no hesitation in saying that the subject of religion is too sacred and also too abstract for any useful discussion on the floor of the House and in the presence of Honourable Members of this House. I do not feel any hesitation in

[Mr. M. S. Aney.]

saying that. No useful purpose would be served by offering and accepting definitions of religion given out by Honourable Members on the spur of the moment, to suit particular theories which they want to propound in support of this measure or that measure. Religion is not such a convenient subject to admit of any easy definition. It requires serious thought, close thinking and abstract thinking of a very high order. Therefore, leaving aside all these definitions, I have no hesitation in saying that we are not at any rate interfering with what we understand as religion in adopting a measure of this kind. On that point, my mind is perfectly clear.

My Honourable friend, Mr. Gadgil, has given us very useful and very instructive information, but let me say frankly that all that he was trying to establish today had really very little connection with the subject matter before the House. What he tried to prove in a way, goes in my opinion a little bit to create a kind of suspicion about the utility of a measure like the Sarda Act itself. What we find is this. He gave us figures of marriages and numbers of widows of 1921 and 1931. We find that the number of child marriages has gone up enormously in the latter year. He gave us a very useful comparative statement for these two years, 1921 and 1931. What do we find? In anticipation of the Child Marriage Act coming into operation people went mad and married all their available girls and boys during the short period before the Act came into force and therefore we find that the figures for 1931 were four or even five times more than what they should have been in a normal year. That only indicates that public opinion in the country was not quite in favour of the Sarda Act. Those persons who had children to marry were probably not favourably inclined towards the Child Marriage Restraint Act that was being enacted in teeth of their opposition. It only indicates that; it does not prove anything else. Those figures do not make out a case in support of the measure of my friend, Mr. Lalchand Navalrai. That is one point.

The second point is that there are no doubt defects in the Sarda Act. As I have already said, rightly or wrongly this Legislature has passed that Act in the teeth of public opposition, because it felt that there was some utility to be served by having a measure like that. It is but fair that such an Act should be given a fair and proper trial. We should not leave any loopholes in the Act for people to take advantage of and thus defeat its provisions. If a legislative measure is going to benefit the people, then that has to be proved by allowing the measure a fair and proper trial. Therefore, for that reason I have always felt that any loophole in a useful Act like that should be removed and remedied, and this House should not take unnecessarily the time of the House over the discussion of an amendment of that measure to remove a defect of this nature.

Advantage was taken of this present Bill by some of my Honourable friends to suggest some other reforms which they have in their mind in talking to this particular measure. For example there seems to be the idea that this fine of Rs. 100 was a paltry thing and, therefore, they suggest that unless some stringent and deterrent punishment is introduced, the Child Marriage Act was not likely to be a useful measure at all. That seems to be the underlying idea of one of my Honourable friends

who made a particular reference to the punishment of Rs. 100 as being a paltry and negligible sum for punishment as fine. I really want my Honourable friends to understand this. I do not want to allow that statement of my Honourable friend to go as gospel truth or as a statement to which we can meekly give our consent. Let us look at the question from a practical point of view. It is not among the so-called educated classes that child marriage is prevalent to any appreciable extent—though there are exceptions in the educated classes also. It is not among the educated classes that the child marriage is prevalent, but it is mainly among the poorer classes that child marriage is prevalent to a great extent.

We Congressmen as well as those who are nationally inclined have no doubt in our mind about the poverty of the Indian people. We cannot say that if a poor man who marries a girl of 6 or 7 or 8 is punished with a fine of Rs. 100, it is nothing to him.

Pandit Nilakantha Das: It is Rs. 1,000, not Rs. 100.

Mr. M. S. Aney: That in my opinion makes the case worse. The point is that because we consider that a particular measure is good we ought not to consider that we will be justified in radically changing the other provision which has been under consideration for a fairly long time and enacted after a good deal of inquiry and cogitation and free and fair discussion among responsible members. A committee sat for considering all these details and they have moved all over the country; evidence was collected and sifted and certain suggestions were made. Those suggestions were again considered in the Select Committee and several provisions have been made. Although there are loopholes which we have got to get over, the amount of fine that is prescribed is not a loophole of that kind. It is sufficiently deterrent in the majority of cases in which this offence takes place, though it may not be sufficiently deterrent in the case of the community represented by my Honourable friend, Seth Govind Das. He distinctly stated that his community is a great sinner in this matter. They have fortunately got their ancestral houses in Bikaner and Jaisalmer. They never remember their original place of birth except for the sake of a marrying a little boy or a little girl if they fortunately happen to have one. It is only then that they want to migrate there, get a girl married and then come back. It is a thing to be discouraged and I believe the present measure from that point of view is a very useful and salutary one.

I will not say one word about the position of my Muslim friends, but one thing I can say. I am myself, as my Honourable friends on these Benches know, not a very great enthusiast of social legislation. I think social legislation should not be undertaken unless it is absolutely necessary. That is the view that I generally take, as legislation in my opinion is not the best way of bringing about reform also. So I am not a friend of social legislation in general and I do not like every custom to be legislated upon here and stringent laws made. Therefore, if I say something to my Muslim friends on this occasion I am sure they will not misunderstand me. This is not a measure which it is necessary for them to oppose at all in the name of religion. The point which my Honourable friends, Syed Ghulam Bhik Nairang and Mr. Kazmi, have got would have been more properly discussed at the time when the original Act was passed. Now the law is there and is working.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan): We want to have it repealed.

Mr. M. S. Aney: When the repeal measure is before the House the whole discussion will be relevant and probably you may get the support of some more Members also; that is another question.

Mr. N. V. Gadgil: You don't promise it now?

Mr. M. S. Aney: I promise nothing, I am saying nothing about myself. He may get even more support from the Benches where my Honourable friend sits. I need not say what I may do; nobody can anticipate. My point is that this is not the proper occasion for them to oppose this measure because it is nothing more than a remedy for an evil which allows a man to avoid this Act and in that way to defeat the purpose for which this useful measure is made. That being the case, I support the motion for consideration.

Several Honourable Members: The question may now be put.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That the question be now put."

The motion was adopted.

Mr. Lalchand Navarai: Sir, the debate has been so much in support of the utility of this measure that I will not say much now. In my speech on the third reading I will have something to say with regard to what the Honourable Members have said. At present, I find that the attitude of the House including the Government side is most favourable. Therefore, I will now say nothing and the Bill may be taken into consideration.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That the Bill to amend the Child Marriage Restraint Act, 1929, be taken into consideration."

The motion was adopted.

Mr. J. A. Thorne (Government of India: Nominated Official): Sir, I beg to move:

"That for clause 2 of the Bill, the following be substituted:

"2. To sub-section (2) of section 1 of the Child Marriage Restraint Act, 1929, the Amendment of Section 1 of following shall be added, namely:
Act XIX of 1929.

'and applies also to—

- (a) all British subjects and servants of the Crown in any part of India; and
- (b) all British subjects who are domiciled in any part of India wherever they may be'."

Sir, my Honourable friend from Sind has said a kind word about the attitude of Government to this Bill and in return I should like to add my congratulations to those that have been offered to him for not only bringing in this piece of legislation but for persevering with it. It is not unknown for an Honourable Member to beget a Bill and then neglect it; but Mr. Lalchand Navarai is a more devoted parent and I am sure that his offspring will do him credit.

The object of the Bill as drafted is to catch persons who evade the scope of the Child Marriage Restraint Act by moving into Indian States. That is clearly not enough. We know that similar evasion has been practised by people moving into territory belonging to foreign powers which lies adjacent to British India. My amendment will make it possible to catch these persons and thus it strengthens the Bill. In passing, I should like to refer to the speech made by my Honourable friend, Mr. Ayyangar. It seems a shame, after the trouncing he has received from various parts of the House, that any one should pitch into him again. But mine is a very gentle slap compared with the blows which he has already received. Mr. Ananthasayanam Ayyangar professed to speak for Madras. I also come from Madras and I wish to say that I blush for him! I understood him to say that in Madras and in his experience there is no evasion of the Act, or at any rate the evasion is negligible. I for one do not believe that. I have personal experience myself to the contrary, and our information from Madras is that there is evasion of the Act and that that evasion constantly takes place by people moving into the territory of foreign powers adjacent to British India.

Now the actual wording of my amendment may puzzle some Members of the House. It puzzled, I think, my friend Mr. Nilakantha Das who found some fault with it. I should explain that it follows the wording of sub-section (2) of section 99 of the Government of India Act of 1935, and I believe I am right in saying that it extends the scope of the Bill as far as this Legislature has power to extend it: and I believe it certainly extends the scope of the Bill as far as there is any practical need to extend it.

I wish to say that it does not follow from our supporting and seeking to strengthen this Bill that Government desire to cast any reflection on the Indian States or the foreign powers whose territory adjoins British India. We know that many States have already passed laws similar to the Child Marriage Restraint Act, and others have such legislation under consideration. We know too that the French Government have recently issued a decree making the marriage of a boy under 16 and a girl under 14 an offence in the French possessions in India. But even if all the States and all the foreign countries whose territory adjoins British India pass legislation on the lines of the Child Marriage Restraint Act, it would still be necessary for us to have a measure on the lines of this Bill in order to ensure that our Act is properly observed. It is quite easy for people who wish to contract a child marriage to slip over the frontier, perform their marriage in a corner of an Indian State or of foreign territory, and then slip back over the border before the authorities of the State or the foreign territory can hear anything about it or do anything about it. At present, if they do this, they cannot be punished in British India. If this measure is passed, it will be possible to punish them in British India just as if the marriage had taken place in British India. Sir, I move.

Mr. Chairman (Sir Cowasji Jehangir): Amendment moved:

"That for clause 2 of the Bill, the following be substituted:

"2. To sub-section (2) of section 1 of the Child Marriage Restraint Act, 1929,

Amendment of section 1 of the following shall be added, namely:

Act XIX of 1929.

'and applies also to—

(a) all British subjects and servants of the Crown in any part of India; and

(b) all British subjects who are domiciled in any part of India wherever they may be'."

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Sir, I rise to support the amendment. In doing so, I must say that I am rather surprised that a Member from the Government Benches should rise and say that he knew personally that the law had been evaded for many years. As regards my friend, Mr. Ananthasayanam Ayyangar, the Honourable the Home Member rose up in great anger and righteousness and said "Here is a man who is so backward". I believe Mr. Ayyangar is as much in a minority in his province, if not even more so as in this House. Still, I suggest that when a man represents rather an unpopular cause he ought to be dealt with a little more generously; and as the Government have not been so very particular about the enforcement of this law, I am entitled to ask what they have been doing all these eight years to prevent this evasion. Was it not their duty to see that when an Act is passed, through non-official initiative or official initiative, it is properly enforced throughout the whole of India? For eight years they have been looking on at this evasion. The Honourable Mr. Thorne has said that as a Madras official he was witnessing this evasion. What steps did he take to have this law amended? I say that in this measure the Government have been guilty of the most unjustifiable evasion of their duties, and I hope that they will take a lesson from this debate and see that however a Bill may be passed, it is their duty to see whether there is any loophole in it and take prompt steps to see that these loopholes are closed. They cannot take refuge under the defence that this was a Bill introduced by a non-official and therefore there were loopholes. When an Act is passed, it becomes the duty of the Government to enforce it. If there are loopholes then they have the Legislative Department to suggest provisions and amendments to close those loopholes; and if unfortunately an Act has been put on the Statute-book with such loopholes, it is their duty to bring in amending measures as soon as may be. They cannot wait for eight years and then take up a self-righteous attitude. I say it is they who really must be in the dock today and I cannot allow them to get off as if they were doing a great thing in a spirit of righteousness and generosity. They have neglected to do their business and we non-officials have been trying to close these loopholes. They say they have been providing us opportunities. What are those opportunities? From Session to Session these Bills are being shunted off and it is very rarely that we can get a Bill through. In fact I have been trying to introduce two Bills for the last one year and I have not had the opportunity. That is the fate of non-official Bills. Of course, the whole procedure for non-official legislation, I think, is entirely antiquated and I suggest to the Government that they should devise means to see that attempts of non-officials to bring in proper social and economic legislation is helped in a more practical fashion. With these words, I support this amendment.

Mr. Thirumala Rao (East Godavari and West Godavari *cum* Kistna: Non-Muhammadian Rural): Sir, I rise to support this amendment because it is a welcome amendment to this extent that all British subjects and servants of the Crown are brought under it. This is an Act passed by the Indian Legislature, and in my part of the country it is the servants of the Crown that have showed the greatest disrespect for the law of the Government: there were many district munsiffs, deputy collectors, inspectors of police and others who have gone to French Yenam and celebrated the marriages of their daughters and sons and they went scotfree all these years. Government expects us now to shower encomiums on them simply

because they have not got a sense of their duty. For once I am sorry that Mr. Ananthasayanam Ayyangar has given an opportunity to Sir Henry Craik to find his counterpart on social matters on this side. Government cannot shine by contrast. As my friend, Mr. Santhanam, just said, if they had any regard for the Statutes they have placed on their Statute-book, they should have brought up this matter long ago. And this Sarda Act, Sir, has brought to the fore questions of diplomacy between France and England. In Masulipatam there is a suburb called Frenchpet, and people were going there to celebrate the marriages of their young children and thus evade the provisions of the Act. The French people were claiming that place as their own, while the British were claiming that portion as their own. There was a regular fight which almost developed into an international dispute as to whom Frenchpet belonged. Ultimately, I think the British gave up their fight against the French. But there is another place, called Yenam, which is very near my place, and to which people from a distance of nearly a hundred miles used to flock. Merchants carry on a roaring business during the marriage season, when thousands of marriages used to be celebrated every year. Small shops dealing in cheap Japanese silk goods were doing a roaring trade. We all know that during Hindu marriages musical accompaniments are a vital necessity, and so when hundreds of marriages are celebrated in one day, they cannot provide the necessary music, with the result that hundreds of people are using the gramophones. One priest officiates for 40 or 50 parties at the same time in these marriages. Youngmen and young children are being married. There is a humorous story that a bride of 3 or 4 years refused to get into the palanquin for procession unless and until her old grandmother of 70 years accompanied her in the palanquin.

Sir, this measure, though it is a mild one, has really created a little sunshine in many families. I know among certain communities in my part of the country so many parents, who are anxious to marry their children before they are 11 or 12, lest they should be *ex-communicated* or ostracised from society, feeling very grateful, and though there are certain loopholes in the present law, this measure will be a great source of strength to these people to keep their daughters unmarried till after 14 instead of tying them to the chariot wheels of un-employed youngmen. Now, all these girls will be able to pursue their education in colleges and have self-respect for them. With these words, I welcome the amendment, and I hope the Government will not wait for the non-official initiative to do all that is necessary in this connection, but they will bring in a comprehensive measure to see that this legislation is really made effective.

Mr. Sri Prakasa: Sir, in my part of the country (*An Honourable Member*: "Which is your part of the country?") no marriage is regarded as properly concluded without some quarrel or mutual abuse, and it is but right that there should be a little disharmony when a marriage legislation is on the anvil! On the ground of general principle, Sir, I am against social legislation so long as a foreign Government exists in the country, but things being what they are, and when many customs that have got the sanction of religion behind them are corroding into the body politic, it is but right that we should take advantage of any machinery that is available in order to remedy the wrongs that are being done to the innocent women and children of the soil. Sir, I come from Benares, and it is a place which is flooded with Ananthasayanam Ayyangars

The Honourable Sir James Grigg (Finance Member): Bad luck.

Mr. Sri Prakasa: But, Sir, there are also persons like me who keep things going, and here it will interest the House to know that I have been an out-cast from my community for many sins of commission and omission for the last many many years

Mr. M. S. Aney: More of sins of commission, I believe.

Mr. Sri Prakasa: Sir, I want to draw the attention of the House particularly to the topography of Benares. There is the river Ganga that divides British Benares from the Benares State

Mr. Chairman (Sir Cowasji Jehangir): May I point out to the Honourable Member that he should speak on the amendment.

Mr. Sri Prakasa: Yes, Sir. Many people, who want to marry their children earlier than the British law allows them to do, just cross the river and marry them on the other side. So a legislation like the proposed one is really imperative. Our esteemed and learned friend, Mr. Aney, rightly pointed out that these child marriages are more common among the humbler classes of our society than among the higher ones. There is a caste called Kunbis in my part of the country who marry their children at the age of 2 or 3, and very often when two expectant mothers meet, they decide that if one gets a son and the other a daughter, they should be married forthwith. Now, I happen to have two servants in my own household who come from this community. One has a nice little boy of about 3 and the other a girl of about 1 year, and I found that they were negotiating a marriage already. So I threatened them with prosecution if they proceeded with their business, and they told me that they would cross the waters and celebrate the marriage on the other side of the river if I persisted in my folly. Now, Sir, if this Act is passed, I think we shall get some relief and that people like these would be properly brought to book.

There is, however, one thing which I do not like in the existing law. I must deal with it when I find my friend, Mr. Santhanam, rising to heights of indignant eloquence. I should like to draw the attention of all concerned to a most serious flaw in the law. I do not know when that is going to be remedied, namely, that an offence under it is not a cognisable offence. Under the present law somebody has to come forward and present a hundred rupees as security before a prosecution under it can be launched. That is a great difficulty. Neighbours do not want to quarrel with their neighbours, nor do relatives want to quarrel among themselves; and therefore very few people are forthcoming to launch a prosecution and present a security of a hundred rupees in a Court of law. That is why before the very eyes of policemen, hundreds of little brides and bridegrooms walk in the streets tied to each other while the authorities look on helplessly. Therefore, if the Government would seriously take up this matter and bring in a Bill to amend the original law in the right direction so as to make any evasion a cognisable offence, I think much of the purpose for which the amendment is being moved will also be achieved. Not till then shall we be in a position to stop these child marriages.

I would also like to appeal to my friend, Mr. Ghulam Bhik Nairang, to look at this proposition from a more humane and reasonable standpoint, and not merely from a narrow theological point of view. It must surely be within his knowledge that, as Mr. Ghiasuddin pointed out, a great deal of harm is being done. We must not allow the name of religion to stop us from doing what is essentially right. It stands to reason that what is good in one country may not be good in another country, and what is reasonable in one state of affairs at one point of time, may not be reasonable in another state of affairs, and in another age. Though I am not prepared to agree that a religion lays or can lay down a law for all time, still I feel that even those who follow their religion in an orthodox manner and regard it as the last word on every thing should see the changing situation from a practical standpoint. There are many little things in which our religion is not being followed by us in our every day lives. We submit because we are convinced that all things cannot be as we would like them to be. It is right and proper to make the best of a bad bargain; and when we find that in the name of religion, things are going on which are eminently unreasonable and undesirable, we ought not to stick to the letter of the religion, but we should examine everything in the light of reason and attune our ideas to those of social well-being. I hope, Sir, that this Bill will not meet with favour only with a majority of the House but with all sections thereof; and that we shall pass it with unanimity and universal goodwill.

4 P.M.

Some Honourable Members: I move that the question be put.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That the question be now put."

The motion was adopted.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That for clause 2 of the Bill, the following be substituted:

'2. To sub-section (2) of section 1 of the Child Marriage Restraint Act, 1929, Amendment of section 1 of the following shall be added, namely:
Act XIX of 1929.

'and applies also to—

- (a) all British subjects and servants of the Crown in any part of India; and
- (b) all British subjects who are domiciled in any part of India wherever they may be'."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. J. A. Thorne (Government of India: Nominated Official): I beg to move:

"That sub-clause (2) of clause 1 of the Bill be omitted."

This is the extent clause: It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

I understand that as this phrase occurs in the parent Act, its inclusion in this Bill is superfluous. Sir, I move.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That sub-clause (2) of clause 1 of the Bill be omitted."

The motion was adopted.

Mr. J. A. Thorne: I beg to move:

"That sub-clause (3) of clause 1 of the Bill be omitted."

It reads "It shall come into force on such day as the Governor General in Council directs".

If the intention is as I understand it—that the Act when passed shall come into force at once as usual, I suggest that there is no need for this clause at all.

Mr. Chairman (Sir Cowasji Jehangir): The question is:

"That sub-clause (3) of clause 1 of the Bill be omitted."

The motion was adopted.

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

Mr. J. A. Thorne: As sub-clauses (2) and (3) have been omitted, it becomes superfluous to retain the brackets and figure "1" in sub-clause (1). With your permission I will move that the figure "1" in brackets and the brackets be omitted.

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

"That the figure "1" in brackets and the brackets in sub-clause (1) be omitted."

The motion was adopted.

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

The Title and the Preamble were added to the Bill.

Mr. Lalchand Navalrai: Sir, I move:

"That the Bill, as amended, be passed."

I am very much thankful to the House for the admirable support they have given to this Bill. I am also very glad of the noble attitude of the Government towards this Bill today. I am also thankful to Mr. Thorne and Mr. Spence for pointing out defects in the Bill. The Bill as I had drafted was a narrower one. They have helped me in attaining the object I had in mind. I cannot forget the broad-mindedness of Mr. Ghiasuddin for saying that this is not a religious question at all. If every question becomes religious like that, then we will not be able to pass any legislation at all in India. Whatever my friend, Mr. Nairang, has said he has done so I believe out of his conviction, but is stultifying by himself asking this House to pass a law in regard to Muslim marriages. He said that the Muhammadan religion is complete in itself. May I ask him if he is not himself asking this House to come to his help on a question of Muhammadan law? (Voices: "No, no.") Here it is. I also know how to say "no, no", but the fact is that my friend has given a notice of introducing a Bill to consolidate the provisions of the Muslim law relating to suits by Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of married Muslim women. Now, if the Muhammadan law is complete, why should there be any doubt, why should it be that the House should be asked to legislate? Anyway I hope that on such questions my learned friends will consider the matter carefully before they make bold to say that everything social is "religion". Then, Sir, coming to my friend, Mr. Ananthasayanam

Ayyangar, I have got an impression about him. (Laughter.) He is an amiable friend, but do not always trust him (Laughter.) The only thing I will say is that my Honourable friend, Mr. Gadgil, has come to my help so as to give him certain lessons which he should remember and take away with him to Madras. One is with respect to the number of evasions of the Act itself, and the other is when he told me that in Sind there must be only one or two cases of evasion of the Act. Here is the statement of the Sind Government already mentioned by Mr. Gadgil that this Act has not been of any use in Sind because marriages are performed on the other side of the river. Sir, with regard to what my Honourable friend, Sir Henry Craik, has said and with regard to the Government attitude, I am very glad; and I hope they will keep up that attitude when Mr. B. Das's Bill comes up. There is one matter in which my Honourable friends, Mr. Spence and Mr. Thorne, will help us and that is this. The Sarda Act does not provide for making a child marriage void, it only makes it illegal in so far only as to punish people for the infringement, but the marriages will always stand valid. So I expect that when the non-official Bill comes up the Government will help us to make such marriages absolutely void if they are against this Child Marriage Restraint Act. Sir, with these words, I resume my seat.

Several Honourable Members: I move that the question be now put.

Mr. M. Asaf Ali: Sir, I rise to congratulate the Mover of the Bill on the easy success he has achieved. Sir, in the course of discussion during the earlier part of the day the Honourable the Home Member was pleased to exchange a few amiable words with my friend, Mr. Ayyangar, and he described him as a "hard-boiled Tory". Mr. Ayyangar did not take it as a joke as he should have but treated it rather seriously. But considering the fact that we are all the time charging Members on the other side as sun-dried bureaucrats, the term "hard-boiled Tory" ought not to worry us at all. (Hear, hear.) A compliment from a sun-dried bureaucrat to a hard-boiled Tory is not a matter to be excited about. Now, I was rather surprised that my friend, the Honourable Sir Henry Craik, forgot the history of this Bill and felt that it was the Members on these Benches who allowed themselves to stand in the way of social legislation of this nature. My Honourable friend may recall the earlier incidents in the history of this particular legislation. Sir, it was introduced in 1927, and the Swaraj Party happened to be in this very House and at the time. I think I may just as well make a brief reference to Pandit Motilal Nehru's speech in regard to this legislation just to show that the attitude of the Congress Party has been consistently one of support of this legislation

The Honourable Sir Henry Craik: On a point of personal explanation, I do not think I said a single word implying that the attitude of the Congress Party had been opposed to any social legislation. All I said was that one Member of the Congress Party, Mr. B. Das, had had opportunities of getting legislation on this matter through but neglected them; I never said a word about the attitude of the Congress Party.

Mr. M. Asaf Ali: I accept the Honourable Sir Henry Craik's explanation. He did not mean what he unfortunately happened to say at the time. I think he said that if it were not for the attitude of these Benches, the earlier Bill which stands in the name of Mr. B. Das would have become law by this evening.

The Honourable Sir Henry Craik: The Honourable Member has entirely misunderstood me. I said that if Mr. B. Das had taken the trouble to prosecute his Bill either today or on the previous occasion when he had an earlier place on the Order Paper, it would have been passed. I did not say a word about the Congress Party at all.

Mr. M. Asaf Ali: I am very glad Sir Henry Craik does not take the view which we thought he had taken about the attitude of the Congress Party. All the same I may remind this House as well as the people outside what attitude the Congress Party has taken with regard to social legislation of this nature all along. Speaking on the 11th September, 1929, Pandit Motilal Nehru said:

"What is our plain duty? That is the one question which Honourable Members have got to answer. What is our plain duty to ourselves, to our children and to our country? I do not think, Sir, that that question admits of any answer except this, that this Bill must be passed with as little delay as possible. I need not remind the House that today the eyes of the whole world are upon this House. We are going through a test, which, if we successfully pass it, will justify our claim to rank amongst the civilised nations of the world."

Sir, I believe my Honourable friend, Sir Henry Craik, said more or less the same thing today in another way, and we entirely endorse every word, and entirely support this measure. I think I may just as well say one word before I resume my seat. As regards the attitude of the elected Muslim Members, as suggested by my friend, Syed Ghulam Bhik Nairang, I have not the slightest doubt that there was a great deal of agitation in the country as far as the Muslim community was concerned at the time this Bill was on the anvil. The objection of the Muslim community was based, if I am not mistaken, on what I thought at the time to be a suspicion of interference with religion, and religious principles and usages of the Mussalmans. But as my friend from the Punjab, the representative of the landholders—Muslim, Hindu and others—put it, there is not one Muslim country in the world today which has not adopted a higher age for marriages. Whether you turn to Egypt or to Turkey or to Iraq or to Persia or even nearer home to Afghanistan, you find that the marital age has been raised. But that is not the only point. If you are talking of interference with religion, I would like to remind my Honourable friend of the various provisions of the Indian Penal Code, many of which are a clear interference with the clear injunctions of Muslim law and yet for years together you have not said a word about it.

An Honourable Member: We have no power.

Mr. M. Asaf Ali: I wish you would try and get some power before you can attempt to set aside some of the provisions of the Indian Penal Code, say, for instance, with respect to section 376. I should like to see how you can put it aside. Even a husband can be hauled up under this section, although, I think, under the Muslim law it is permissible. After all, there is such a thing as taking a progressive attitude with regard to law, and I am certain that there is no single Koranic injunction which can be quoted here or anywhere in support of the view that such marriages must always be permitted. All that you can say is that it is permissible under *Fiqah*. But *Fiqah* is a changeable thing and it changes from time to time. Various Muslim Judges have given their rulings in the past in this respect. Surely, today you can change the law and you can say that according to the exigencies of the situation the Muslim community must go further ahead. That is my personal attitude and I am not speaking in the name of my Party

when I say that. I am speaking as a Muslim when I say that and I certainly do feel that it is time that the Mussalmans all over India began to look a little further ahead and not always harked back to what has gone by. You have to build up a future and that future must be built up in co-operation with the rest of the world. You cannot always say that you are going to lag behind whether others are going ahead or not. With these few words, I congratulate the Mover of the Bill and I also congratulate the Government on having, after all, acquitted us of the suspicion that we were against any progressive legislation in this House.

Mr. M. Ananthasayanam Ayyangar: May I be allowed to say, Sir, a word of explanation. So far as the remark that was addressed to me by the Honourable the Home Member that I was a hard boiled Tory, I took it in good humour. But when he referred to certain instances and the opinions expressed by me in the discussion over another Bill I pointed out to you, Sir, that those remarks were not relevant.

Syed Ghulam Bhik Nairang: Sir, I also want to say something by way of personal explanation. But for the fact that a good many references have been made to me in the course of the debate today over this Bill, I would not have spoken the second time. It appears to me that, on the one hand, there is a great misunderstanding in the mind of the Honourable the Mover, Mr. Lalchand Navalrai, about my attitude and, on the other hand, there are certain most unjustifiable and unwarranted assertions made by some of the speakers with reference to my speech which I must challenge and cannot allow to pass unchallenged. Mr. Lalchand Navalrai misunderstood me although I had made it perfectly clear that my objection to his motion was intended to indicate the attitude of the Muslim community and their elected representatives in this House towards the Sarda Act and anything that seeks to further extend or strengthen it, and that our silence on this occasion should not be taken as in any way prejudicing the cause which the Muslim community has been prosecuting all along ever since that Act was passed and even at the present moment has led Qazi Muhammad Ahmad Kazmi to put in an amending Bill to the effect that the Act should not apply to the Muslim community. It was only for the removal of a possible misunderstanding in the future that I entered a protest, otherwise I said that I wished God-speed to Mr. Lalchand Navalrai's proposed legislation so far as the non-Muslim communities are concerned. My Honourable friend misunderstood me and thought he could have a fling at me by pointing out that although I claimed that the Muslim law was complete in itself yet I sought the aid of this Legislature in passing a Bill which is on the agenda today in which I seek to consolidate the Muslim law bearing on the question of divorce, etc. Now, every word that is said in that Bill is based on Muslim law. It is only to remove the ignorance of those who do not know and do not care to know that I want this Legislature to pass a legislative enactment in order to compel the ignorant people to act on the Muslim law. As for other remarks in my previous speech, I do not want to go into details and take up any more time of the House as we have other important business to go through. But I must point out that I do not accept for a moment the allegations of fact made by Mr. Ghiasuddin or by Mr. Asaf Ali as to what the other Muslim countries have done or are doing. These are all absolutely vague, unwarranted and unfounded allegations. Nothing of the sort has been done by any Muslim country.

Mr. Lalchand Navalrai: I want to know whether this is a reply or a personal explanation.

Mr. President (The Honourable Sir Abdur Rahim): He is speaking on the motion before the House.

Syed Ghulam Bhik Nairang: After making these remarks, I join the general chorus of congratulations to the Honourable the Mover of this Bill and wish him God-speed subject to the exception already indicated by me.

Mr. K. S. Gupta (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, I am very anxious to speak because I know it perfectly well that none of the previous speakers has ever figured as a complainant in a prosecution case under the Sarda Act. But I had the good fortune of appearing as a counsel for prosecution in 40 cases. In one case I was prosecuting a Police officer and his superior sent a threat to me saying that I was always in the hands of the police. I said I was and I am and I will be, and the Police officer was fined only Rs. 200. This is due to the colossal indifference on the part of the Government who ought to see that their own laws are honoured not by breach but by observance.

Once a District Magistrate was pleased to ask me: "Have you not got any better business?" I said: "This is the best business." I have the first regard for the safety of the society to which I belong. It is a wholesome measure that the Government and the people should take equal interest in seeing that the society is well maintained. But this Government never cared for the welfare of its subjects. The failure is also due to the apathy of the orthodox section of the society. One priest came to the box as a witness and said: "No doubt, the marriage was performed not in this Saravan but in the previous Saravan" because there is the question of limitation. Hitherto, they used to send invitations but now they have stopped them because they do not want to give publicity to the dates of such marriages. With regard to punishment, there is a fine up to Rs 1,000 or 1 months' imprisonment. But if they had confined themselves to punishment only, it would have been much better. Punishment with fine and imprisonment would be the best.

One man, 50 years old, married a girl of 10. I booked him. When the Magistrate questioned this old man as to why he married such a young girl, he said that she was intended to look after his health and to help him in performing his religious ceremonies. The Magistrate remarked that on the other hand, it was the old man that should look after the health of the child and not she his health. The old man pleaded for mercy. He was a very rich man. He never cared for the amount of fine that might be levied on him. The old man came out during the lunch interval and begged me not to press for imprisonment. That gave me the clue. I immediately asked the Magistrate to see that he awarded imprisonment at least for a day or even till the rising of the Court, because the old man was willing to pay any amount of fine, but he was not willing to face imprisonment. The man was fined Rs. 1,000 and he went scotfree without imprisonment. I submit this is one of the inherent defects in the Act.

With regard to the priests, I may inform the House that they enter into contract with the parties to the marriage. The priest always asks the two

parties, "supposing I am fined, either of you should pay the fine". The girl's party or the boy's party always pays the fine on behalf of the priest. If it is a question of imprisonment, then the priest would hesitate to perform any marriage against the laws. I therefore submit that the law should be modified enacting a provision for imprisonment in the case of the priest at least, if he performs such illegal and unjust marriages.

Another difficulty is this. We are suffering under a great handicap in getting the proof of age. Generally in certain cases, municipalities, in certain cases, Unions, and in certain cases, the Tahsildars have to give the proof of age. In trying to get proof of age, we used to overstep the bounds of limitation, that is one year. I once sent an application to the District Magistrate requesting his help in securing proof of age. He said that it was not his duty. Is he doing his duty as a Government servant in refusing this help to me? This is an exhibition of colossal indifference on the part of the Government.

In another case, I had to go to Ellore. I belong to Vizagapatam, which is 100 odd miles off. I filed a case before the District Magistrate, Ellore. First of all there was a preliminary enquiry before the Sub-Divisional Magistrate. I appeared and got all proof. The accused admitted the offence. Then the case was posted for trial to another day. I was sick on that day, practically bed-ridden and I wired to the Magistrate praying for an adjournment. At once he dismissed the case on the ground that the complainant was absent. Is it a proper discharge of duty on the part of Government servant? Does it not amount to the Government not administering its own laws properly?

Then there is the question of registration of marriage. If marriages also are registered just like births and deaths, then the date and time of marriage cannot be questioned. There is also the question of jurisdiction. As has already been pointed out by my Honourable friend, Mr. Thirumala Rao, and others, there is a place called, Yenam, a French possession in which more than 17,000 marriages were celebrated in a period of five years. People run up to Yenam just as they proceed to Benares to be rid of all their sins. Here in this case they proceed to Yenam to rid themselves of Sarda Act sins and other marriage sins in the salt waters of Yenam. As has already been pointed out, many people have become rich on this account. There is a tax of Rs. 25 or Rs. 30 called certification tax. What happened was this. Some people took advantage of this certification tax from Yenam. They went to villages and performed marriages after obtaining such certificates. When I pointed this out to the police, to the Magistrates and the Tahsildars, they never cared to take any cognisance of it because it is a non-cognisable offence. I submit this is a serious and inherent defect in the law.

Every time I filed a complaint I was asked to sign a bond. I was smarting under this insult. I could not understand why I should sign a bond. I had no personal animosity against anybody. I was in charge of an Association, being its honoured President. I took great pains to see that such cases were booked. Instead of being thanked for such honorary work in enforcing the law of the land, I was asked to sign bonds, 20 or 30 times a month. It was certainly an insult to me and to my co-workers to be asked to sign bonds. These are all inherent defects in the provisions of the Act. Some of the defects are being rectified today by the measure

[Mr. K. S. Gupta.]

under discussion. I must remark that Government must be more anxious to honour their own laws. In such a case instead of finding fault with us, instead of brushing aside the Bill of my Honourable friend, Mr. B. Das, they should suspend the Standing Orders and allow some one of us to move Mr. Das's Bill in his absence. Or the Government might themselves take up that Bill as their own and bring it before the Assembly. I say it is in the best interests of the community that Mr. Das's Bill should be passed into law. I support the present measure whole-heartedly because it is in the public interest.

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

"That the Bill, as amended, be passed."

The motion was adopted.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir I beg to move:

"That the Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938."

Sir, in moving this motion, it is not intended to introduce any new legislative measure so far as Muslims are concerned. What we want is only that certain provisions of Muslim law which have not been recognised by the rulings or the precedents of the Anglo-Muhammadan law as prevalent in British India should be recognised by the Legislature and may become enforceable in Courts of law. That is the only object with which this Bill has been moved in this House. The law of marriage so far as Muslims are concerned deals with marriage as a matter of contract between a husband and the wife. As a contract both are entitled to finish that contract under certain contingencies which are provided by the Muslim law. One party, that is the husband has been exercising that right and that right has been recognised by the Courts in British India. But unfortunately on account of certain handicaps, Muslim women have not been in a position to exercise that right. It is to enforce that right and to get that recognised by law that this present Bill is being moved. Just a perusal of the Bill will show that cases in which women shall have a right of getting divorce would be like this: when the husband is absconding and there is no provision for her maintenance, when the husband is suffering from insanity of a dangerous type, when the husband neglects or refuses to maintain her and so on.

So this is a Bill which only removes a very grave defect and is calculated to meet a very great necessity and a very great demand of the Muslim community. As it is only for the purpose of eliciting public opinion that I move this motion today. I do not think it is necessary for me to dilate any further upon it at the present stage. Sir, I move.

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

"That the Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie be circulated for the purpose of eliciting opinion thereon by the 31st July, 1938."

Mr. J. A. Thorne (Government of India: Nominated Official): Sir, I have only a word or two to say on this. I have nothing to say on the merits of clauses 1 to 5; and it is, I believe, entirely in accord with Government practice that any Bill which proposes to alter social or religious usages or custom of a community should be ventilated as widely as possible before this House proceeds to consider it. The clause to which I have to draw attention is clause 6, and to that clause Government will have to take decided objection. This clause provides that—

“a suit for the dissolution of marriage by a married Muslim woman shall be filed in the proper Court, provided that the presiding officer of that Court is a Muslim.”

In other words, no suit of this kind can be filed except in a Court presided over by a Muslim. Then it seems to have occurred to the Honourable Member that there might not everywhere be Courts presided over by Muslims, and the subsequent sub-clauses profess to devise machinery by which, where the presiding officer is not a Muslim, the suit shall be passed from one place to another until it does find a presiding officer of some sort in some Court or other where the presiding officer is a Muslim. Then when the suit is decided after these adventures, in the course of which it may have to go back to the original Court or it may have to follow an officer who may be transferred,—in course of time when the suit is decided and an appeal is made, sub-clause (e) provides that—

“Appeals from the decision of the trial Court shall lie to the High Court and shall be heard and decided by a Muslim Judge of that Court.”

Well, Sir, Government regard this procedure as both very difficult in practice, more specially in provinces where the number of Muhammadans and Muhammadan Judges may be smaller than it is in some other parts of India, and also open to strong objection in principle. They are not prepared to admit the principle that legislation shall decide the community or religion of the Judge who shall try any particular case.

Mr. M. S. Anney (Berar: Non-Muhammadan): Sir, so far as the main purpose of this Bill is concerned, namely, to enable Muslim women to claim dissolution of marriage on certain grounds, my entire sympathy is with the Honourable the Mover of the Bill; and I believe to that extent this measure is intended to remove a great handicap and disability that existed in the way of Muslim women. And my Honourable friend therefore deserves all the support that we can give him to facilitate the passage of that portion of the Bill.

The provisions of the Bill which will call for very serious consideration are those which are embodied in clauses 5 and 6 of the Bill. The Honourable the Mover of the Bill himself has noted the fact in the Statement of Objects and Reasons that—

“the Courts in British India have held in a number of cases that the apostasy of a married Muslim woman *ipso facto* dissolves her marriage.”

And now what we have to see is whether the provision embodied in clause 5 of the Bill will be in any way injurious to the interests of these women as a class or not. The provision in clause 5 is this:

“The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.”

It means this that even if a Muslim woman is converted to some other faith the object of the Mover is to enact that even in that case the woman

[Mr. M. S. Aney.]

should be considered as being legally married to the Muslim husband although she has ceased to be a Muslim woman on account of her conversion. Whether this is a state of things which is desirable and whether it is not likely to prove detrimental to the interests of that woman herself is a point which Honourable Members shall have to seriously consider. I am glad that my Honourable friend, seeing the importance of the principle which he is enunciating here and its remote consequences upon the economic and moral condition of the woman herself, thought it proper not to press this measure for the immediate consideration of this House but to circulate the Bill for getting public opinion thereon. I myself think that this is a case in which many Members will have to differ from the Honourable Member and to urge considerations other than, and opposed to, those on which clause 5 is based by the Honourable Member in charge of the Bill.

As regards clause 6, I think so far as this House is concerned, it is an attempt to lay down an entirely new and novel principle in the matter of the administration of justice. I can understand the insistence of any person belonging to any particular religion or sect saying that the law by which he shall be governed shall be the personal law to which he belongs. But whether the administration of that personal law should be also in the hands of the Magistrate who belongs to that particular religion and professes to follow that particular personal law is a matter which in my opinion is laying down not only a novel principle but a principle of a very retrograde character which this House should not give countenance to at all for more reasons than one. I believe the administration of justice in this country, apart from many defects which there may be, has been hitherto in the hands of educated men who have shown themselves as judges and magistrates capable of appreciating properly the spirit of the personal law of the parties before them irrespective of the fact whether they belong to and profess that personal law or not, and to the best of their ability they have tried to do impartial justice according to the personal law of the person which they have been called upon to administer. I am quite sure my Honourable friend, Mr. Kazmi, does not want to indicate want of confidence in the integrity or sense of justice of any magistrate or judge who may be presiding over the Courts of British India. If that is not so,—and I am sure he does not think like that,—then I believe he should be amenable to any changes that may have to be proposed after serious consideration of this clause and getting public opinion, thereon, for which the Bill is being circulated. I strongly object to the recognition of the necessity of referring matters even of marriage or dissolution or anything like that only to Judges professing a particular faith and a particular religion. We think, we have now grown to a state when the communities can certainly, in the matter of administration of justice at any rate, rely upon the best of our men who are at present being and will be hereafter recruited to the judicial service and who can be expected to dispense justice, even-handed and equal, and according to the true spirit of the law which they will have to administer. Therefore I feel it necessary to indicate that these two clauses have to be very seriously considered and public opinion thereon will have to be taken into consideration when the Bill comes up again for consideration in the form of a motion for reference to Select Committees before the House. With these words, I support the motion for circulation.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I rise to support the motion and in doing so I will briefly touch upon two points pressed by Mr. Aney and also by Mr. Thorne. Mr. Aney has expressed certain doubts as to the correctness of the position taken up in clause 5 of the Bill, that the conversion of a married Muslim woman to a faith other than Islam shall not by itself have the effect of dissolving the marriage tie. It has been explained in the Statement of Objects and Reasons that the view of the Courts has all along been that such conversion leads automatically to a dissolution of the marriage without any further proceeding anywhere

Sardar Sant Singh (West Punjab: Sikh): Under what law is it so dissolved?

Syed Ghulam Bhik Nairang: Under one view of the Islamic jurists; but there are no less than three different views of the Muslim jurists on that point and we are in a position to prove and we will prove when the opinions are received and when the question is gone into next time in detail, that the view which should prevail is that of the jurists of Samarkand and Balkh which holds that the conversion of a Muslim woman does not lead to a dissolution of the marriage. Of course, this is a matter which has got to be discussed in some detail, and the authorities have to be referred to in extenso and therefore I am only adverting to it briefly.

As regards the question of the Court which should entertain and decide such suits, it does apparently, as pointed out by Mr. Aney and also by Mr. Thorne, involve some inconvenience, and it may not always be feasible to have a Court of that kind for the trial of such suits, but one thing is certain that in matters matrimonial it is not unusual even under the statutory law of India to have a peculiarly constituted Court. Why, only the other day, I think last year, we passed here a Parsi Marriage and Divorce Act in which the Court which is to take cognisance of suits of divorce in the Parsi community is to be constituted in a peculiar way which is very different from the way in which other Courts are constituted. So there is nothing unusual

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): The judge has not necessarily got to be a Parsi.

Syed Ghulam Bhik Nairang: I will certainly accept that statement on the point, but the constitution of the Court is all the same very peculiar. Anyhow if in the exigencies of the personal law a peculiarly constituted Court has to be provided I think it can be provided without any extreme inconvenience: it is not a very impracticable thing. Anyhow that is a question which can also be gone into in detail when the details of the Bill are discussed in this House at some future stage. For the present it appears that all are agreed that it might be circulated for eliciting opinion thereon.

Sardar Sant Singh: Sir, I really welcome this measure which removes an anomaly from the personal law of our brother Muslims. There is some anomaly at any rate in the Muslim law as interpreted in the Indian Courts that while the husband has got unlimited powers of divorce, the Muslim women are placed at a disadvantage, and so far as this provision of the Bill goes it has our hearty support.

[Sardar Sant Singh.]

But I am afraid that my friend while drafting this measure has gone a bit further than it is desirable that he should have gone. The first point that arose in this connection is about the introduction of communal tribunals in the country: not only this, that it shows a distrust of the judges in matters of administration of personal laws of the various communities living in India, but it will add to the various complications and it will tend to introduce a mentality that should, I think, be avoided at all costs. Our friends' demand for ousting the jurisdiction of the ordinary civil Courts and handing it over to Courts that are presided over by one community is just like introducing the principle of *imperium in imperio*. Here these cases will have to be decided, if this Bill is enacted, by a Court presided over by a Muslim Judge; and if no Muslim Judge is available in the territorial jurisdiction where the cause of action arises, the author of the Bill seeks that it should be handed over to a neighbouring district, or even probably to a neighbouring province. How far such a provision is justified has still to be considered. As the Bill is going for circulation I want that the public should consider this aspect of the case. I have very strong reasons to object to this introduction of communalism in the judiciary of our country. It will not be out of place if I were to point out that in the Punjab we are already suffering in this respect from a communal judiciary, where communal considerations are considered to be far more important than the administration of justice strictly in accordance with the law. I need not here point out the various cases, but if an inquiry is made, my friends will agree with me that this communalism has crept in in the judiciary of the province of the Punjab at any rate. I would not like that a legislative enactment should be enacted where communalism should form a part of the judiciary and this mentality should be created in our judges.

As regards the provision contained in section 5, I would like the author of the Bill to explain one aspect of the case. Here he says that mere apostasy will not by itself be sufficient to dissolve a marriage validly performed. I put a question to my friend, Mr. Nairang, when he was speaking if the Courts in India have acted on the personal law of the Muslims when they give their decrees of judgments that apostasy by itself automatically dissolves the marriage of a woman among Muslims. Here is a provision by which the author of this Bill wants to interfere in the Muslim law of his own community. Sir, I have great sympathy for it, because in the course of my practice at the bar extending over 30 years, I have come across many dishonest conversions, and advantage of the Muslim law is taken to get the marriages dissolved. The High Courts have gone so far as to say that whether the conversion is *malafide* or *bona fide* it is immaterial, and the very conversion itself dissolves the marriage. Such dishonest conversions have no sympathy from me, and I have always been condemning the actions of those women who have undergone baptism in order to get rid of their husbands; for them an alternative provision has been made in this Bill

Mr. President (The Honourable Sir Abdur Rahim): I suppose you are not finishing it today?

Sardar Sant Singh: I shall take five minutes more, Sir. I shall try to finish it in five minutes. So far as this principle of conversion is challenged, I am really for it, but I would like to point out that this

principle of apostasy that I have tried to understand as it is embodied in the Muhammadan law is this, that a woman who gives up the religion of Islam is deprived of all civic rights which the Islam law gives her. Now, if we had a Muslim ruler, probably we would all have welcomed it, but with the advent of the British rule, it is found that this principle which is a sort of confiscation or forfeiture of civic rights is being utilised as a privilege and for some purpose. This aspect of the case may be taken into consideration when opinion is invited on the provisions of this Bill. As my friends are very anxious that I should finish, I support the motion for circulation.

Mr. President (The Honourable Sir Abdur Rahim): I understand there are other Honourable Members who wish to speak on this motion.

Before adjourning, I understand that Mr. Dow has a formal or rather a non-controversial motion relating to an official Bill, but this is a day allotted for non-official business. If the House has no objection I shall let Mr. Dow move his motion.

Several Honourable Members: No objection.

THE INDIAN TEA CONTROL BILL.

APPOINTMENT OF CERTAIN MEMBERS TO THE SELECT COMMITTEE.

Mr. H. Dow (Commerce Secretary): Sir, with your kind permission, I beg to move:

“That Mr. Muhammad Nauman and Mr. M. Ananthasayanam Ayyangar be appointed to the Select Committee on the Bill to provide for the control of the export of tea from, and for the control of the extension of the cultivation of tea in, British India in place of Dr. Sir Ziauddin Ahmad and Mr. Kuladhar Chaliha.”

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

“That Mr. Muhammad Nauman and Mr. M. Ananthasayanam Ayyangar be appointed to the Select Committee on the Bill to provide for the control of the export of tea from, and for the control of the extension of the cultivation of tea in, British India in place of Dr. Sir Ziauddin Ahmad and Mr. Kuladhar Chaliha.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 4th February, 1938.