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(23rd February to 10th March, 1933)

FIFTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1933



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Legislative Assembly

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MR. ABDUL MATIN CHAUDHURY, M.L.A. (From 22nd March, 1933.)

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LEGISLATIVE ASSEMBLY.

Monday, 27th February, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Chairman (Sir Hari Singh Gour) in the Chair.

MEMBER SWORN :

Mr. Clement Wansbrough Gwynne, C.I.E., O.B.E., M.L.A. (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

Mr. Chairman (Sir Hari Singh Gour): Secretary has received a letter from Mr. S. C. Mitra, Mr. S. G. Jog, Lala Rameshwar Prasad Bagla, Dr. Ziauddin Ahmad, Seth Haji Abdoola Haroon, Mr. Gaya Prasad Singh, Mr. N. M. Joshi and Bhai Parma Nand, to the effect that they do not intend to put the starred questions that stand in their names on the Agenda for today, and that these questions may be treated as unstarred and answered accordingly. The Honourable Members whose names do not appear in the letter are Mr. Maswood Ahmad, Mr. Thampan and Mr. Piracha.

SUPPLY OF BOOKS TO STATE PRISONER MR. SUBHASH CHANDRA BOSE.

525. *Mr. S. C. Mitra: (a) Is it a fact that when Mr. Subhash Chandra Bose was in the Madras Penitentiary, he wanted to borrow books from the Imperial Library of Calcutta in accordance with the Library Rules?

(b) Is it a fact that on former occasions when he was in prison he had borrowed books from that Library?

(c) Is it a fact that the Librarian of the Imperial Library was prepared to lend him books in accordance with the Library Rules?

(d) Is it a fact that the Bengal C. I. D. intervened at this stage and demanded that the books should be censored by them before being despatched by the Librarian to Mr. Bose?

(e) Is it a fact that the Librarian of the Imperial Library objected to this interference on the part of the Bengal C. I. D.? If so, what were the grounds of his objection?

(f) Is it not a fact that, under the rules for Bengal State prisoners, the Bengal C. I. D. have no jurisdiction in the matter of censoring or passing books? Is it not a fact that outside Calcutta, the authority for censoring or passing books for State Prisoners is vested in the Jail Superintendent and the District Magistrate? If so, why did the Bengal C. I. D. interfere in a matter quite outside their jurisdiction?

(g) Is not the Librarian of the Imperial Library a responsible officer of Government?

(h) Is not the Imperial Library a Government Library maintained by Government?

(i) Why was not the Librarian of the Imperial Library regarded as competent to send books to Mr. Bose without the mediation of the Bengal C. I. D.?

The Honourable Sir Harry Haig: I am making enquiries as to the facts and will lay a statement on the table in due course.

CENSORSHIP OF THE CORRESPONDENCE OF BENGAL STATE PRISONERS.

526. ***Mr. S. C. Mitra:** (a) Will Government be pleased to state who is the censoring authority for the letters of Bengal State Prisoners confined in (i) the Punjab, (ii) the Central Provinces, (iii) the United Provinces and (iv) the Madras Presidency?

(b) Is it a fact that in some cases the letters of the Bengal State Prisoners confined in these provinces are sent to the Bengal C. I. D. for censoring?

(c) Is it not a fact that under the rules for Bengal State Prisoners the letters of the State Prisoners referred to above should be censored and passed by the local police?

(d) Are Government aware that unnecessary delay and inconvenience are caused, because letters and telegrams have to be sent to Calcutta for censoring?

(e) Do Government propose to rectify the procedure, where the rules are at present being violated, so that in all cases the censoring of letters may be done by the local police?

The Honourable Sir Harry Haig: (a), (b) and (c). Under the rules the censorship of the correspondence of State Prisoners is conducted in the provinces to which they belong.

(d) No. Some delay is inevitable, but the work of censorship is conducted with all possible expedition.

(e) The rules are being observed.

RULES FOR THE GRANT OF INTERVIEWS WITH THE BENGAL STATE PRISONERS AND DETENUS.

527. ***Mr. S. C. Mitra:** (a) Is it a fact that the rules for the Bengal State Prisoners and detenus provide for one interview a week?

(b) Are Government aware that in the case of State Prisoners and detenus confined outside the province of Bengal, this concession cannot in actual practice be availed of?

(c) Is it a fact that even in the case of State Prisoners and detenus confined outside Bengal, the sanctioning authority for interviews is the Bengal C. I. D.?

(d) Is it a fact that when Mr. Subhash Chandra Bose was imprisoned in the Central Provinces, Mr. Ruikar and Mr. A. R. Tijaray of Nagpur and other prominent residents of the Central Provinces were refused permission to interview Mr. Bose in spite of their best efforts?

(e) Is it a fact that when Mr. Subhash Chandra Bose was confined in the Madras Penitentiary, he applied for permission to interview Mr. A. Rangaswami Iyengar and Mr. S. Srinivasa Iyengar of Madras, but failed to get the necessary permission?

(f) Is it a fact that Mr. A. Rangaswami Iyengar of Madras, Mr. K. Subrahmanyam of Cuddapah and other gentlemen also applied for permission to interview him, but could not obtain the necessary permission?

(g) Are the Government of India in a position to state what the Bengal State Prisoners confined outside Bengal or their relatives and friends should do in order to obtain the necessary permission for interviews?

(h) Do the Government of India, in such cases, propose either to deal with the question of interviews themselves or to delegate that authority to the Local Governments, within whose jurisdiction the Bengal State Prisoners or detenus happen to be confined at the time?

The Honourable Sir Harry Haig: (a) The rules permit of one interview a week.

(b) This is no doubt often the case.

(c) Permission for interviews is given under the orders of the Government of Bengal.

(d), (e) and (f). I have no information.

(g) and (h). The rules on this point are clear and State Prisoners are fully aware of the position. No action is proposed.

DISABILITY PENSION TO DISCHARGED MILITARY MEN.

528. ***Mr. S. G. Jog:** (a) With reference to the answer of Government to a supplementary question in connection with starred question No. 1543 of the 5th December, 1932, will Government please peruse page 8 of their publication entitled "Manual of Indian Military Law" and state if they could change the conditions of enrolment paper of persons enrolled under 1915 Regulations, without obtaining their consent?

(b) If the answer to part (a) above be in the negative, will Government please refer to the answer to starred question No. 1544 (c) of the 5th December, 1932, and state if there was any provision under the 1915 Regulations for a disability pension being given for a temporary period? If not, what are the reasons for not allowing full arrears to the individuals applying for the renewal of their pensions?

(c) Is it a fact that the pension certificates of the individuals referred to in part (a) above were taken away from them? If so, why?

(d) Were not these pension certificates despatched to the Controller of Military Pensions?

(e) Was it not for the Controller or the Officers Commanding to take steps to renew their pensions or at least to make sure if the particular disability on account of which these individuals were granted pensions in the first instance existed or ceased?

Mr. G. R. F. Tottenham: In answering this and the next 5 questions, I hope the Honourable Member will not mind if I give him somewhat brief replies. Most of them raise points which I can assure him will be

open to full discussion at the Conference which is to take place as a result of the undertaking that I gave the other day in dealing with the pension resolution.

The answers to the various parts of this question are as follows:

(a) The conditions of enrolment are certainly not subject to alteration in the manner suggested, but I can find nothing in the enrolment form which prescribes the conditions under which pensions will be admissible.

(b) The answer to the first part of the question is in the affirmative. The second does not arise.

(c), (d) and (e). I presume that the Honourable Member is referring to individuals who received pensions for a limited period in the first instance. If so, I will prepare a statement showing the procedure followed and lay it before the Conference to which I referred at the beginning of my reply.

DISABILITY PENSION TO DISCHARGED MILITARY MEN.

529. *Mr. S. G. Jog: (a) With reference to the statement laid on the table on the 15th September, 1932, in answer to question No. 289 of the 29th March, 1932, will Government please state if the family pension in the case, in which Government were satisfied with regard to the attributability of death to military service, has been granted; if not, why not?

(b) Will Government please state the name of the individual who has been given the benefit of doubt as regards admissibility for a disability pension?

(c) Has the benefit of doubt been given retrospective effect from the date of his disablement? If not, will Government please state the date from which the benefit of doubt has effect? What are the reasons for not giving the benefit of doubt from the date of the discharge? What is the percentage of this man's disability?

(d) On what date was the pension of the aforesaid individual sanctioned? Has it been paid? If not, why not?

(e) What is the probable time which the printing of pension circulars take? Is there no provision in the Regulations under which a hundred per cent. disabled individual can get his pension immediately on receipt of his pension certificate?

(f) How many years has the disabled individual in question been without pension? What probable time will it take to receive the payment of his pension?

(g) What are the reasons for not giving the benefit of the doubt to other similar cases brought to Government's notice, *vide* question No. 141 of 9th March, 1932?

Mr. G. R. F. Tottenham: (a) Yes.

(b) Reservist Fatehyab Khan.

(c) The pension has been given retrospective effect from the 28th April, 1931, the date on which the medical board examined the man. The claim was not raised until fifteen years after the man had left the service. In view of the doubtful nature of the case and also of the fact

that pensions are given primarily for future maintenance, Government did not consider that it would be equitable to give full arrears. The degree of disability was assessed at 100 per cent. in 1931.

(d) The pension was sanctioned by the Government of India on the 15th August, 1932, and was notified by the Controller in a circular, dated the 17th October, 1932. If the pensioner has applied for payment, I presume that it must have been paid.

(e) Ordinarily, it takes about seven weeks. The answer to the second part of the question is in the negative.

(f) The man was discharged in 1915 but there is no evidence to show that he was then completely disabled. As regards the latter part of the question, the Honourable Member is referred to the answer given to part (d).

DISABILITY PENSION TO DISCHARGED MILITARY MEN.

530. **Mr. S. G. Jog:** With reference to the statement laid on the table on the 15th September, 1932, in answer to question No. 302 (d) of the 30th March, 1932, will Government please state what facilities have been provided for the submission of claims to pensions in Rajputana and other Provinces where the Soldiers Board do not exist or its office happens to be too far away from the residence of claimants?

Mr. G. R. F. Tottenham: Where Soldiers Boards do not exist, their functions are performed by the local civil or political authorities, but there are six Soldiers Boards in Rajputana.

Ex-soldiers also can, and do, apply to Commanding Officers.

DISABILITY PENSION TO DISCHARGED MILITARY MEN.

531. **Mr. S. G. Jog:** (a) Will Government please state if there is any definition in the Army Regulation for disabilities attributable to field or foreign service, apart from the one given for "ordinary military service" in paragraph 414 of the Regulations or the medical services for the Army in India?

(b) If the answer to part (a) above be in the negative, will Government please state if the disabled sepoys of the War whose disability was contracted on field or foreign service or was aggravated thereby, are and have been governed by the definition of "attributability" meant for "ordinary military service"?

(c) Will Government please explain how the abnormal conditions of field or foreign service can be covered by the definition for "ordinary military service"?

(d) What proof is required that a particular disability, involving the discharge of a trained sepoy invalided from field or foreign service, was contracted on such service?

(e) Are not Government the custodian of Long Rolls, Medical History Sheets, and other records relating to the discharge of sepoy's invalided from service during and after the war?

(f) Will Government please state if, under the terms of the Indian Army Act (section 17), it is not imposed on the Officer Commanding to record the cause of a sepoy's discharge on his discharge certificate?

(g) What are the reasons under which the cause of discharge shown on a sepoy's discharge certificate, invalidated from field or foreign service, with good or exemplary character recorded on his certificate, and with no proof for his indulgence in drinks or drugs, is considered insufficient to establish his claim to disability pension in accordance with the terms of his enrolment?

Mr. G. R. F. Tottenham: (a), (b) and (c). The phrase "ordinary military service" is not used in the Regulations. "Military service" includes field or foreign service: and I find it difficult to appreciate the Honourable Member's difficulty in applying the principles laid down in paragraph 414 to any aspect of military service.

(d) It is obviously impossible to prescribe the volume or character of the evidence on which a pension sanctioning authority should rely in considering a claim. Such an authority would ordinarily have regard to regimental and other records, such as the history of the case, and the proceedings of a medical board or of a Court of Enquiry.

(e) Yes.

(f) Yes.

(g) Because the disability on account of which the discharge takes place need not necessarily and invariably be a pensionable disability.

MEDICAL HISTORY SHEETS AND PROCEEDINGS OF MEDICAL BOARDS RELATING TO WAR DISABILITIES.

532. *Mr. S. G. Jog: (a) Will Government please state the time-limit after which the medical history sheets and proceedings of Medical Boards relating to war disabilities are destroyed?

(b) Is it a fact that they have been destroyed in the case of disabled individuals admitted to ordinary pension instead of a disability pension?

(c) Will Government please refer to their answers to unstarred question No. 141 (a) and (b) and state if, in the case of the Indian officer referred to in the question (Jemadar Pahlad Singh), the proceedings of the Medical Board, in accordance with whose findings the Indian officer was discharged, are not available? If so, what is the authority of the fresh Medical Board to state definitely that the disease asthma from which the Indian officer was suffering was not contracted on, aggravated by or attributable to field or foreign service?

Mr. G. R. F. Tottenham: (a) Medical board proceedings are preserved for a period of ten years. Medical history sheets are destroyed on the recommendation of a board constituted under paragraph 1654 of the King's Regulations.

(b) I presume that this is possible.

(c) The opinion expressed was that of the medical board held at Lucknow on 15th May, 1916.

GRANT OF PENSIONS TO THE HEIRS OF INDIAN SEPOYS KILLED OR DISABLED IN WAR.

533. *Mr. S. G. Jog: With reference to Government's answer to starred question No. 1498 (g), dated the 29th November, 1932, in which Government admitted that the favourable presumption distinctly authorised

in Army Instruction India, 238 of 1921, was omitted in the re-constructed Army Instruction 1058 of 1922, will Government please state, if the adverse effect of the 'omission' of favourable presumption will have effect retrospectively? If not, why is the benefit of favourable presumption not being given in the following cases:

- (i) 10/6th Rajputana Rifles letter No. Pen./48/4/27, dated 23rd January, 1930, regarding Havildar Ram Narain of 2/48rd Erinpura Regiment.
- (ii) Dy. Assistant Controller of Military Pensions, Lahore, letter No. G./4/6827, dated 1st October, 1932, regarding No. 1842 Recruit Rohtan Singh.
- (iii) Head Quarters, Mhow Brigade Area, letter No. 5312/56/S. C., dated 12th December, 1932, regarding 1527 sepoy Gutti Ram of 10/6th Rajputana Rifles.
- (iv) 4/19th Hyderabad Regiment letter No. 57/1/A., dated 16th February, 1931, regarding sepoy Ramji Lall.
- (v) Officer Commanding, Skinner's Horse, Lucknow, letter No. A./23/C./1933, dated 9th November, 1931, regarding Sawar Ram Bhagat.
- (vi) Government of India, Army Department, letter No. B.-19275/1 (A. G.-14), dated 29th June, 1932, regarding fitter Jang Sher Khan.
- (vii) Skinner's Horse letter No. A./23/C./2407, dated 9th January, 1932, regarding Sawar Ram Bhagat.

Mr. G. R. F. Tottenham: The omission in the later rule does not mean that the presumption should not be made. In regard to case No. III referred to by the Honourable Member, I am informed that there is no entry relating to the sepoy in the records of the hospital in which he is said to have died. The individual named in case No. VI died while on leave from Mesopotamia. There is no evidence whatever to show that he was on sick leave, and the only evidence as to the cause of his death was a statement made by a private doctor 11 years later to the effect that the cause was possibly chronic colitis; the doctor added that he could not be positive on this point. I have no information about the other cases, but I am willing to examine any papers which the Honourable Member would like to bring to my notice.

REPRESENTATION IN THE CENTRAL LEGISLATURE IN THE NEW CONSTITUTION OF THE MEMBERS OF THE LATE ROYAL FAMILY OF DELHI.

534. *Seth Haji Abdoola Haroon: Are Government aware that some agitation is being made in the press these days for the representation of the members of the late Delhi Royal family in the Central Legislature in the new constitution and also that a memorial to His Majesty King George V was recently submitted through the Collector, Benares?

Mr. H. A. F. Metcalfe: With your permission, Sir, I will answer questions Nos. 534 to 538 together. I would refer the Honourable Member to the answer given by me to Mr. Maswood Ahmad's question No. 47 on the 2nd February, 1933.

REPRESENTATION IN THE CENTRAL LEGISLATURE IN THE NEW CONSTITUTION OF THE MEMBERS OF THE LATE ROYAL FAMILY OF DELHI.

†535. ***Seth Haji Abdoola Haroon:** (a) Will Government please state the number of the members of the Delhi Royal family in this country and also the districts in which they live?

(b) What are their political rights and privileges in the various districts?

(c) Have Government made any arrangement in the several districts for their education and employment?

REPRESENTATION IN THE CENTRAL LEGISLATURE IN THE NEW CONSTITUTION OF THE MEMBERS OF THE LATE ROYAL FAMILY OF DELHI.

†536. ***Seth Haji Abdoola Haroon:** Have the Delhi Royal family ever been represented by a nominated or elected representative in the Central Legislature?

REPRESENTATION IN THE CENTRAL LEGISLATURE IN THE NEW CONSTITUTION OF THE MEMBERS OF THE LATE ROYAL FAMILY OF DELHI.

†537. ***Seth Haji Abdoola Haroon:** (a) Will Government please state the demands of the Delhi Royal family as put forward in their memorial to His Majesty the King and also as to what steps do Government contemplate to take thereon?

(b) Have Government made any attempt to find out their demands from their duly elected representative, Khan Bahadur Nawab Hamid Hussain Khan, through whom the Princes of the late Delhi Royal family in their memorial desired to present their case?

(c) If not, do Government intend to do so now?

REPRESENTATION IN THE CENTRAL LEGISLATURE IN THE NEW CONSTITUTION OF THE MEMBERS OF THE LATE ROYAL FAMILY OF DELHI.

†538. ***Seth Haji Abdoola Haroon:** (a) Have the Delhi Taimuria Association and Anjuman Khandan-i-Jahandad Shah, Benares, forwarded any resolutions to the Government of India?

(b) If so, will Government please state the resolutions and the action they intend to take in that connection? If not, why not?

APPEAL FROM THE ALL-INDIA ADI-HINDU DEPRESSED CLASSES CONFERENCE HELD AT LUCKNOW AGAINST THE POONA PACT.

539. ***Seth Haji Abdoola Haroon:** (a) Will Government please state whether they have received an appeal from the All-India Adi-Hindu Depressed Classes Conference recently held at Lucknow on the 5th November, 1932, against the Poona Pact?

(b) If so, will Government be pleased to lay on the table a copy of the appeal?

(c) What steps do Government propose to take in that connection?

The Honourable Sir Brojendra Mitter: (a) I have seen a copy of the appeal in question.

† For answer to this question, see answer to question No. 534.

(b) The appeal is printed in Hindi and was published by the President, District Adi-Hindu Sabha, Cawnpore, in a pamphlet covering 76 pages, priced at four annas a copy. I regret that no spare copy is available for placing on the table.

(c) It is not proposed to take any action in the matter.

REMOVAL OF PROSTITUTES FROM THE CHAORI BAZAR, DELHI.

540. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Are Government aware that the Chaori Bazar is one of the main thoroughfares and business centres of Delhi?

(b) Are Government aware that prostitutes have been removed from public places in many towns of British India?

(c) What steps have Government or the Municipal Committee of Delhi so far taken to remove them from Chaori Bazar?

(d) Are Government prepared to consider the desirability of their removal from this locality at an early date? If so, what steps do they propose to take in this matter?

Mr. G. S. Bajpai: (a) and (b). Yes.

(c) The Delhi Municipal Committee has, since November, 1930, declared Chaori Bazar a prohibited area under section 152 of the Punjab Municipal Act for the residence of prostitutes and the keeping of brothels and are doing everything possible to enforce this prohibition.

(d) Does not arise.

EXCLUSION OF THE DAWOODI BORAHs FROM THE OPERATION OF THE WAKF ACT.

541. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Are Government aware that the Dawoodi Borahs waited in deputation on His Excellency the Governor of Bombay and Education Ministers of Bombay praying for the application of the Wakf Act to that community?

(b) Will Government please state whether they have received any Bill from the Government of Bombay for the sanction of the Governor General to exclude the Dawoodi Borahs from the operation of the Wakf Act? If so, what action has been taken on it?

(c) Do the Government of India contemplate introducing a Bill in the Legislative Assembly to exclude the Dawoodi Borahs from the operation of the Wakf Act of 1923?

(d) Has any non-official Member of the Legislative Assembly given notice of such a Bill?

(e) Has a memorial signed by thousands of Dawoodi Borahs of different parts of India been submitted to His Excellency the Governor General praying not to give his sanction to the introduction of a Bill either in the Legislative Council of Bombay or in the Legislative Assembly which aims at the exclusion of them from the operation of the Wakf Act of 1923? If so, what action has been taken on that memorial?

The Honourable Sir Harry Haig: (a) I have no information.

(b) The answer to the first part is in the negative. The second part does not arise.

(c) No.

(d) Yes

(e) Some memorials have been received. His Excellency the Governor General has refused sanction to the Bills referred to in part (d) of the question.

EMPLOYMENT OF CERTAIN MEN ON THE ABOLITION OF CERTAIN POSTS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

542. *Mr. Gya Prasad Singh: (a) Will Government be pleased to state whether it is a fact that some new men have been imported in the Railway Clearing Accounts Office, at the time of the abolition of the Southern Punjab Railway, Ticket Collecting Crews System on the East Indian Railway, certain section in the office of the Chief Commercial Manager, North Western Railway, etc.?

(b) If the reply be in the affirmative, will Government be pleased to state the circumstances which necessitated the employment of these men in the Railway Clearing Accounts Office?

(c) Did these men hold substantively their former posts? What position has been assigned to them in the gradation list of the Railway Clearing Accounts Office?

(d) Is it a fact that persons who had been in service in the Railway Clearing Accounts Office for over four years have been discharged, while the new men referred to in part (a) above have been kept in service? If so, why?

Mr. P. E. Rau: (a) Two men were taken from the Southern Punjab Railway on the purchase of that Railway, three men were taken from the Crew Staff of the East Indian Railway, but long before the abolition of that System, and none from the office of the Chief Commercial Manager, North Western Railway.

(b) I am informed that the men were taken in view of their previous experience and suitability for the work in the Railway Clearing Accounts Office.

(c) No. Only one of these men has been confirmed in the Railway Clearing Accounts Office and his position is below those confirmed prior to him. Others are temporary. Their position in the cadre will be fixed when, and if they are confirmed.

(d) I understand that certain persons with longer service were discharged on grounds of least efficiency before the revised orders regarding discharge solely on the basis of length of service were issued.

HARDSHIP CAUSED TO THE MIDDLE CLASS PEOPLE BY THE ASSESSMENT OF INCOME-TAX ON AN INCOME OF RS. 1,000.

543. *Lala Rameshwar Prasad Bagla: (a) Are Government aware that the policy of assessing income-tax on an income of Rs. 1,000 has caused great hardship to the middle class people and that there is great resentment among them on this account?

(b) Are Government contemplating to revert to their original policy?

The Honourable Sir George Schuster: (a) Government cannot accept this statement of the position as accurate.

(b) I must request the Honourable Member to await my usual budget statement on the 28th February.

DOING AWAY WITH THE SURCHARGES ON INCOME-TAX AND SUPER-TAX.

544. *Lala Rameshwar Prasad Bagla: (a) Will Government be pleased to state if they are thinking of doing away with the surcharge on income-tax and super-tax?

(b) Will Government kindly state if they have received any representations from public bodies and individuals to that effect and also the names of those who have submitted such representations?

The Honourable Sir George Schuster: (a) I must ask the Honourable Member to await my usual budget statement on the 28th February.

(b) The Government have received representations on the subject of Taxes on Income from the following Chambers of Commerce:

Punjab, Burma Indian, Indian Merchants, Bombay, United Provinces and the Associated Chambers of Commerce.

EXPORT OF GOLD FROM INDIA.

545. *Lala Rameshwar Prasad Bagla: Will Government please state the total export of gold from India till February 7th, 1933, giving its value in rupees and its quantity in tolas, from the time Britain went off the gold standard?

The Honourable Sir George Schuster: About 15 million fine ounces of gold valued at about Rs. 116½ crores were exported from India between the 22nd September, 1931, and the 7th February, 1933.

UNLOCKING OF FIRST AND SECOND CLASS COMPARTMENTS BEFORE THE STARTING OF TRAINS AT STATIONS OF ORIGIN.

546. *Lala Rameshwar Prasad Bagla: (a) Will Government please state if there are any regulations under the Indian Railways Act or the railway bye-laws of the various Railway Companies as to the time when, before the starting of trains from their stations of origin, the first and second class compartments have to be unlocked to permit entrance by passengers?

(b) Are Government aware that the Railway authorities at various stations of origin do not unlock the first and second class compartments to permit the entrance of passengers earlier than 20 minutes before the starting of trains from their stations of origin?

(c) Will Government please state the actual regulations followed by the various Railway Companies in keeping first and second class compartments locked up till hardly 20 minutes are left for the departure of trains at the stations of origin?

(d) Are Government aware that such a short space of time as 20 minutes, before the starting of trains from their stations of origin, when the first and second class compartments are unlocked to permit

entrance of passengers, entails lots of trouble and inconvenience to long journey passengers, particularly ladies, in accommodating themselves comfortably?

(e) Have Government considered the question of the advisability of requiring the various systems of Railways to arrange the unlocking of first and second class compartments at least an hour before the starting of trains from their stations of origin to permit the entrance of passengers?

(f) If the reply to part (e) be in the affirmative, will Government please state if they propose to enact such regulations as to force the Railway Companies to allow an interval of at least one hour before the starting of trains from their stations of origin, for passengers to accommodate themselves in first and second class compartments?

Mr. P. E. Rau: (a) to (f). The Indian Railways Act does not prescribe any minimum period before the booked departure time of trains for I and II class compartments to be made available for passengers to entrain. For details of this nature, Agents of Railway Administrations issue working orders to suit the local conditions of each Railway, and Government are not aware that adequate time is not allowed for passengers to entrain at stations from which trains originate.

If the Honourable Member will kindly specify the particular stations or railway he has in mind I will see whether any modification of the existing orders is desirable.

PIECE OF LAND NEAR JUMA MASJID, DELHI, OCCUPIED BY THE ALWAR STATE EMIGRANTS.

547. ***Bhai Parma Nand:** (a) Will Government be pleased to state whether the piece of land lying across the road opposite Juma Masjid, Delhi, where the Alwar State emigrants were encamping for a long time, belongs to the Delhi Municipality or Government as the Nazul property?

(b) In either case will Government be pleased to state under what conditions or terms the site is now in the occupation of the above class of people?

(c) If it transpires that the site is not Government or Municipal property, will Government please state what steps have been taken to keep the said area and its vicinity immune from unhealthy and insanitary conditions?

(d) Was the site allotted with the consent of some authority and are Government aware of the apprehension that it might be converted into a hot bed of political propaganda and communal tension?

Mr. G. S. Bajpai: (a) The land referred to by the Honourable Member is Nazul property.

(b) The site was not given or leased to emigrants from the Alwar State. Some of the emigrants encamped on the area and as they were homeless, it was not considered desirable to evict them.

(c) The Delhi Municipal Committee has taken special steps to ensure the sanitation of the area by the provision of extra sweepers, temporary public latrines, and additional refuse bins. In addition a qualified medical man visits the area daily, and Lady Health Visitors are also sent occasionally.

(d) The site was not allotted and it is only in temporary occupation of the emigrants. Government have no reason to suppose that it might be converted into a hot bed of political propaganda and communal tension.

LAND ON THE LEFT HAND SIDE OF THE TOWN HALL IN THE QUEEN'S GARDEN, DELHI.

548. ***Bhai Parma Nand:** (a) Are Government aware that certain construction work was going to be taken in hand by the Delhi Municipality on the left hand side of the Town Hall facing the Queen's statue?

(b) Are Government aware that this construction was stopped on account of certain disputes which arose between the Municipality on the one hand and the Hindus and Muhammadans on the other?

(c) Are Government also aware that the site in question has been now specifically made over to the Muhammadans with rights of exclusive use?

(d) If so, will Government state whether the Local Government duly consulted the Government of India in the matter referred to above?

(e) Will Government be pleased to state whether the Archaeological Department was invited to discover what kind of monuments were found under the said ground? If not, why not?

(f) Was the question of making it a protected monument and preserving it under the Ancient Monuments Preservation Act considered instead of handing it over to a special class of people with rights of unrestricted area? If not, why not?

(g) Are Government aware of the ugly and unhygienic conditions to which the above site is subjected?

(h) Will Government be pleased further to state what documents have been executed in respect of the transfer of this site. If so, by whom, and in whose favour?

(i) Are Government aware that much discontent prevails among the public, inasmuch as the rights and privileges of the general public have been sacrificed to favouring a particular class?

Mr. G. S. Bajpal: Enquiries have been made and the result will be communicated to the House in due course.

GRADE AND SALARY OF AN INDIAN CIVIL SERVICE OFFICER APPOINTED AS DEPUTY COMMISSIONER OF DELHI.

549. ***Bhai Parma Nand:** (a) Will Government be pleased to state in what grade and salary generally an I. C. S. officer is appointed as Deputy Commissioner of Delhi?

(b) What is the nature of his duties?

(c) Does he do judicial work as a District Magistrate or Collector or Registrar?

(d) Is it a fact that almost all the powers vested in him as District Magistrate, Collector, Registrar, etc., etc., have been delegated to the Additional District Magistrate, Delhi?

(e) Is most of his time occupied with the administration work? If so, what is the nature of such administration work and the time occupied in the discharge of such duties?

The Honourable Sir Harry Haig: (a) The Officer appointed as Deputy Commissioner, Delhi, draws pay according to the senior time-scale of the Indian Civil Service. A special pay of Rs. 150 per mensem is attached to the post.

(b) The Deputy Commissioner is responsible for all the ordinary duties of a District Officer. He is in addition President of the Delhi Municipal Committee, the Notified Area Committee and numerous other committees of local institutions.

(c) Yes.

(d) The Additional District Magistrate has been invested with the powers of District Magistrate, Collector, and Registrar. This officer also acts as Superintendent of the Delhi District Jail. It has been necessary to invest him with these powers as it would be impossible for the District Magistrate alone to perform all the functions of the District Magistrate, Collector and Registrar, unaided.

(e) As explained in reply to (b), the Deputy Commissioner has a heavy charge, and his work cannot be confined to ordinary office hours.

SUBORDINATE STAFF EMPLOYED IN THE PERMANENT ESTABLISHMENT OF THE ACCOUNTS OFFICES OF STATE RAILWAYS.

550. *Mr. N. M. Joshi (a) Will Government be pleased to state the total number of subordinate staff employed in the permanent establishment of the Accounts Offices of the Great Indian Peninsula, East Indian, Eastern Bengal, North Western and Burma Railways respectively, with also their average gross and net earnings for the last three years?

(b) Will Government please state the total number of staff blocked in the grades of Rs. 120, Rs. 90 and Rs. 80, with their length of service, and the total period of block, in each of the State Railway Accounts Offices?

Mr. P. R. Rau: (a) The number of permanent subordinates including inferior servants in the Accounts Offices of the five State-managed Railways is as follows:

Great Indian Peninsula 697, East Indian 1,325, Eastern Bengal 559, North Western 1,334 and Burma 212. The average gross earnings for the three years ending the 31st March, 1932, for these railways in lakhs are 13.66, 18.51, 5.08, 16.64 and 4.27, respectively; the average net earnings for the same period are 8.53, 6.52, 1.89, 3.43 and 1.26, respectively.

(b) The information is being compiled and will be laid on the table in due course.

DEPARTMENTAL EXAMINATION FOR PROMOTION IN THE ACCOUNTS OFFICE OF THE GREAT INDIAN PENINSULA RAILWAY.

551. *Mr. N. M. Joshi: (a) Is it a fact that a definite assurance was given by Government when taking over the old Great Indian Peninsula Railway Accounts staff in 1925 to the effect that no new conditions of service barring the then existing prospects and privileges of the staff would be imposed, and that rules have since been framed making it compulsory for the staff to pass certain departmental examinations as a condition precedent for ordinary promotions even in the clerical grades?

(b) If so, are Government prepared to restore the old privilege by exempting the old Great Indian Peninsula Railway staff from passing the departmental examinations since imposed for promotions in the clerical grades? Is it a fact that no such departmental examinations are made conditional for promotions in the clerical grades in other departments of the railway?

(c) Is it a fact that the Office Manuals of State Railway Accounts Offices which are books prescribed for the departmental examinations, though made available to staff on all other State Railways, have not yet been made available to the Great Indian Peninsula Railway Accounts staff, though examinations have regularly been held since the last three years and the Great Indian Peninsula Railway Accounts Staff Union has been repeatedly representing the matter to the administration? If the answer be in the affirmative, who is responsible, and what action do Government propose to take to meet this long-standing grievance?

Mr. P. R. Rau: (a) and (b). Government do not consider that prescribing an examination as a necessary qualifying condition for promotion can be held to be in any way contrary to the assurance referred to. I may add that persons in the permanent employment of the Company who were over 40 years of age when the management was taken over by the State are not subject to this condition.

(c) I am informed that office manuals are still under preparation in most of the State-managed Railways but that though these are prescribed subjects for departmental examinations, in practice the questions are based on Codes or orders which are available to the Staff. I do not recollect that the grievance complained of has hitherto been brought to my notice, but I shall have the question examined to see whether any action can be taken to meet the grievance complained of.

DISLOCATION OF WORK IN THE TRAFFIC ACCOUNTS BRANCH OF THE GREAT INDIAN PENINSULA RAILWAY ACCOUNTS OFFICE.

552. ***Mr. N. M. Joshi:** (a) Is it a fact that the work in the Traffic Accounts Branch of the Great Indian Peninsula Railway Accounts Office has been in a state of continued dislocation since the abolition of the Divisional Traffic Accounts Scheme in 1931, and sanctions were accorded from time to time by the Controller of Railway Accounts for the maintenance of additional temporary establishment to clear the heavy arrears?

(b) Is it a fact that as a result of reduction in the posts of Station Inspectors on the Great Indian Peninsula Railway, the work of station inspections has been in a serious state of arrears and recently, within so short a time after retrenchment, a series of frauds have come to light on the Railway, and in consequence the Chief Accounts Officer has asked for more posts of Inspectors being sanctioned by the Controller of Railway Accounts to cope up with the work of station inspections?

(c) If the answers to parts (a) and (b) above are in the affirmative, will Government be pleased to state how the surplus in the clerical and station inspection staff for retrenchment was arrived at and by whom?

(d) Is it a fact that almost all the discharged clerical staff were re-employed within a very short time, and, if so, did Government anticipate the necessity of re-employing the discharged staff in view of the impending voluntary retirement scheme? If not, why not?

(e) Is it a fact that this has resulted in additional expenditure by way of payment of notice pay and grant of passes to go home and back, etc.?

Mr. P. R. Rau: (a) I understand that there was some dislocation in the Traffic Accounts branch work after the abolition of the Divisional Traffic Accounts scheme in 1931, but not additional staff was sanctioned in this connection.

(b) I am informed that the arrears in station inspection were not a result of the reduction in the posts of Station Inspectors on the Great Indian Peninsula Railway, but were originally due to additional duties in connection with the Divisional Traffic Accounts scheme when it was in existence. A reduction in the posts of Station Inspectors was ordered in 1932 and formed part of the retrenchments in the Accounts Department in giving effect to the recommendations of the Railway Retrenchment Sub-Committee. This was effected by extending the intervals between inspections and did not mean increased work to the staff concerned, whose duties have, as a matter of fact, been reduced by the introduction of the State Railway procedure which involved fewer checks than the old Great Indian Peninsula Railway Company's procedure. It is true that the Chief Accounts Officer made a request recently for some temporary staff to help in bringing up the arrears but he failed to convince the Controller of Railway Accounts of the necessity for this staff. The request was therefore refused pending an examination of the results of the reduced checks and re-arrangement of programmes given effect to recently. No series of frauds have come to light on the Great Indian Peninsula Railway as a result of the retrenchment of posts of Inspectors.

(c) The surplus in the clerical and Station Inspection staff was determined by the Controller of Railway Accounts in consultation with the Chief Accounts Officer in the light of the volume of work to be done.

(d) It was found possible to re-employ almost all the discharged clerical staff only because an equivalent number offered subsequently to retire voluntarily. The offers of voluntary retirement were not received in time to avoid discharges.

(e) The additional expenditure involved is very small and does not exceed Rs. 50.

NON-PUBLICATION OF THE ACCOUNTS OF THE STAFF BENEFIT FUND OF STATE RAILWAYS.

553. ***Mr. N. M. Joshi:** Will Government be pleased to state whether it is a fact that the accounts of the Staff Benefit Fund of the State Railways are not published annually and, if it is so, are Government prepared to consider the desirability of publishing the accounts annually for the information of the railway employees, who contribute to it by way of fines imposed on them by the Railway and to satisfy themselves that the fund is made use of in accordance with the rules and for the objects provided for them? If not, why not?

Mr. P. R. Rau: The accounts of the Staff Benefit Fund of the State Railways are kept by the Chief Accounting Officer of the Railway concerned. Government are quite prepared to accept the suggestion of the Honourable Member that the accounts should be published and are issuing instructions accordingly.

GRANT OF COMPENSATORY ALLOWANCES TO THE STAFF OF THE GREAT INDIAN PENINSULA RAILWAY ACCOUNTS DEPARTMENT.

554. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state in what respects the staff of the State Railways Accounts Offices are under the control of the Controller of Railway Accounts, and in what respects they are under the control of the Agents of the various Railways concerned?

(b) Is it a fact that the staff engaged since October, 1929, in the Accounts Department of the Great Indian Peninsula Railway are not granted the local compensatory allowances although these allowances are granted to the staff of that department engaged prior to October, 1929, and also to the staff of the other head-quarters offices of the Railway at Bombay without any distinction of date of engagement?

(c) If the answer to part (b) above be in the affirmative, do Government propose to grant these allowances to all the staff of the Great Indian Peninsula Railway Accounts Department? If not, why not?

Mr. P. B. Rau: (a) The State Railway Accounts staff is under the control of the Controller of Railway Accounts.

(b) Yes.

(c) No. The present rates of pay for Railway Accounts staff were introduced in 1929 after careful examination of all relevant factors and after consultation with the Standing Finance Committee for Railways. Nothing has happened in the interval to necessitate a re-consideration of the rates of pay. I should add that these rates apply only to staff who were recruited after the date of introduction of these scales of pay.

PROBATIONARY ACCOUNTANTS IN THE VARIOUS ACCOUNTS OFFICES OF STATE RAILWAYS, ETC.

555. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state the number of probationary accountants in the various Accounts Offices of the different State Railways, in the Clearing Accounts Office and in the Office of the Controller of Railway Accounts who have already been confirmed and who are still awaiting confirmation?

(b) Is it a fact that some of them have been exempted from the departmental qualifying examinations, and a few others have failed in the first and even in the second and third attempts?

(c) Is it a fact that there are many young men in the Accounts Offices of the different State Railways who possess high educational qualifications, have office experience and besides have passed the departmental examinations creditably even in the very first attempt?

(d) If the answers to parts (b) and (c) above are in the affirmative, do Government propose to confirm the men referred to in part (c)?

Mr. P. B. Rau: (a) On the 1st January, 1933, there were 18 probationary accountants in the Railway Accounts Department of whom 13 have been confirmed and five have since been reverted for not passing the departmental examinations.

(b) Six of the thirteen who have been confirmed were appointed before 1st January, 1929, and under their terms of appointment were not required

to pass the examination before being confirmed as accountants, grade II. They are, however, required to pass the examination before they can be promoted to higher grades.

(c) Yes.

(d) When vacancies arise, their claims will be considered.

RECRUITMENT OF PROBATIONARY OFFICERS IN THE STATE RAILWAY ACCOUNTS OFFICES.

556. ***Mr. N. M. Joshi:** (a) Is it a fact that the probationary officer attached to the office of the Chief Accounts Officer of the Great Indian Peninsula Railway was not selected through competitive examination, and has not passed the necessary departmental examination even in the third attempt?

(b) Do Government propose to put a stop to this method of recruiting probationers in the State Railway Accounts Offices in view of there being highly qualified, academically as well as departmentally, young men in the department itself?

Mr. P. B. Rau: (a) There is at present a probationer of the Indian Railway Accounts Service attached to the Office of the Chief Accounts Officer, Great Indian Peninsula Railway. He was recruited through the Public Service Commission on the result of a competitive examination held in December, 1930.

He has appeared twice in the departmental examination and has passed in two subjects; the rules require that he should pass within four years of appointment.

(b) I hope that my Honourable friend does not desire Government to give up the present method of recruiting officers on the results of a competitive examination.

AMENDMENT OF SECTION 20 OF THE INDIAN TRUST ACT, 1882.

557. ***Mr. K. P. Thampan:** Will Government be pleased to state:

(a) whether it is a fact that the Government of Madras made representations to the Government of India to amend section 20 of the Indian Trust Act, 1882, to declare the debentures of the Central Land Mortgage Bank of Madras as *trustee securities*;

(b) whether it is a fact that these debentures are backed by first mortgage securities executed in favour of various primary banks and the interest of which is guaranteed by the Local Government; and

(c) whether the Government of India propose to introduce the necessary legislation; if not, why not?

Mr. G. S. Bajpai: (a) Yes.

(b) The Government of India understand that the debentures of the Central Land Mortgage Bank, Madras, are floated on mortgages transferred to it by primary land mortgage banks. The Local Government have guaranteed interest on debentures to be issued in the first five years to the extent of Rs. 50 lakhs until the debentures are paid off or redeemed by the Bank.

(c) No. The Government of India consider that the question of extending the list of all-India trustee securities, with the object of adding a new class of provincial securities, is one which should be deferred until the new constitution has been framed.

Mr. K. P. Thampan: May I know, Sir, whether the Townsend Committee on Co-operation in the Madras Presidency, the Royal Commission on Agriculture and the Central Banking Enquiry Committee have all recommended that the debentures of the Madras Central Land Mortgage Bank must be treated as trustee securities?

Mr. G. S. Bajpai: I am quite prepared to concede, Sir, that my Hon-ourable friend's statement as regards the recommendations of these Committees and Commissions is correct, but my point is that, in view of the uncertainty as to whether Government at the Centre would in future have any control over the finances and the financial status of Local Governments, they are not prepared to enlarge the list of securities under the Trustees Act.

Mr. K. P. Thampan: May I know whether the Government are aware that on account of the failure of the Madras High Court to declare these as trustee securities by framing the necessary rules and the failure of Government to introduce the necessary legislation, the Bank is undergoing considerable difficulties for want of funds and that it is not working satisfactorily?

Mr. G. S. Bajpai: No, Sir. I am not aware of the fact.

Mr. K. P. Thampan: Will Government kindly enquire?

Mr. G. S. Bajpai: Government do not consider that any useful purpose would be served by making that enquiry, because the reason which I have given for Government's decision not to admit these securities to the list of approved securities relates to the future constitution and not to present conditions.

Mr. K. P. Thampan: In view of the fact that similar loans such as the Madras Municipal Loans, and the Port Trust Loans which are of a provincial character have been treated as trustee securities and in view of the fact that if the Government do not introduce the necessary legislation, it would be a very great handicap for the successful working of the Madras Central Land Mortgage Bank, do not the Government consider it their duty to introduce legislation without any further delay?

Mr. G. S. Bajpai: Well, Sir, as I have tried to explain, the difficulty relates to or arises out of the uncertainty as to the control, if any, which the Central Government in future will have over provincial finances. The securities which have already been admitted were admitted in the past when constitutional changes were not impending.

Diwan Bahadur A. Ramaswami Mudaliar: May I ask a question arising out of the answer? Is it not a fact that there is no proposal to treat the Indian Trust Act as a Provincial Act or as capable of amendment by

a provincial Legislature and that the present proposal is that the Indian Trust Act should be a Central Act capable of amendment only by the Central Legislature, that there is no uncertainty with regard to the future, and that the decision must always lie with the Central Government whether they will classify any particular set of loans as trustee securities or not and that, therefore, the decision has to be taken by this Government with reference to this matter? There is no uncertainty at all, so far as I am aware.

Mr. G. S. Bajpai: It may be, as my Honourable friend has stated, that there is no uncertainty as to the powers of the Central Legislature in regard to the Indian Trust Act. But the question is whether the Central or Federal Government will be in a position to satisfy itself regarding the solvency and the financial position generally of Provincial Governments. As far as I understand the position, the uncertainty arises out of that and not out of any doubt as to the future legislative jurisdiction of this House.

Diwan Bahadur A. Ramaswami Mudaliar: In this case may I inform my Honourable friend that the Provincial Government have recommended that these debentures should be treated as trustee securities and if there is any uncertainty in the future, a similar recommendation or want of recommendation of the Provincial Government must amply meet the necessities of the case?

Mr. G. S. Bajpai: My Honourable friend's point is that the recommendation of a Local Government should be considered sufficient guarantee of the quality of the security which they recommend. That raises a general question of financial policy on which I am not prepared to pronounce an opinion.

Mr. F. E. James: In view of the real importance of this matter to the question of agricultural loans in Madras, in view of the fact also that the Government of Madras, as I understand it, are very anxious that these debentures should be classed as trustee securities, will the Government of India now reconsider the matter?

Mr. G. S. Bajpai: The answer which I have given is based upon the very recent reconsideration of the recommendation of the Government of Madras, and, so far as I am concerned, I am not prepared to say that in the light of the facts which the Government had already in their possession they are prepared to reconsider the matter.

Mr. F. E. James: May I then ask at what stage the matter is likely to be reconsidered? Is the matter to rest there until the federal constitution comes actually into being?

Mr. G. S. Bajpai: The position is that we have communicated our views to the Government of Madras. If the Government of Madras feel that the matter is of such pressing urgency that they want it reconsidered, they will come up again and then, I daresay, the Government of India will reconsider it, but not till then. .

Mr. K. P. Thampan: May I know whether it is a fact that in August, 1931, the Government of India informed the Madras Government that the necessary legislation would be taken up at the Simla Session of the Assembly and that towards the end of the same year the Government changed their attitude? May I know what intervened between August and December to warrant a change of policy?

Mr. G. S. Bajpai: I am not aware that the Government of India in 1931 agreed that there should be legislation and, in 1932, went back upon it.

Mr. F. E. James: That is a fact.

Diwan Bahadur A. Ramaswami Mudaliar: May I ask the Honourable the Finance Member if any consideration about such an opportunity being given to class it as trustee securities affecting the loan operations of the Government of India has been taken into account in coming to this decision.

The Honourable Sir George Schuster: I would ask my Honourable friend to appreciate the fact that this is a complicated and difficult matter, and I would also remind the House that there is a Bill down in the list of possible business for this Session on this very subject. I suggest that a debate on that Bill would be a more suitable occasion for going into this whole question than this process of supplementary questions and answers. I would assure my Honourable friend that we fully appreciate the reasons why the Madras Government have made this recommendation; and it was only after very careful consideration that on the whole we came to the conclusion that in the present uncertainty it was undesirable to enlarge the list of trustee securities. It will be possible in the course of the debate on the Bill to go into that matter much more fully.

PROCEDURE FOR GRANTING THE EXPENDITURE ON CAPITAL ACCOUNT OF INDIAN RAILWAYS.

558. ***Dr. Ziauddin Ahmad:** (a) Are the various stages of discussing and finally granting the expenditure on Capital Account of Indian Railways the same as outlined by the Acworth Committee in para. 45 and succeeding paragraphs of their report? If the procedure is different, what is the procedure now?

(b) Was the procedure adopted in granting capital expenditure on Kalyan Power Station and Kangra Valley Railway?

(c) If not, in what respect was it deviated from?

Mr. P. B. Rau: (a) I presume my Honourable friend is referring to the paragraphs in the Acworth Committee's report which describe the preparation of the capital programme for each railway and the annual allotment of funds for it. There have been various changes in detail in the procedure which it is impossible for me to describe in the short space of a reply to a question on the floor of this House; but I may say briefly that the present procedure is that the proposals of the Agent regarding the capital programme of his line are submitted by him in two sections to the Railway Board: the rolling stock portion is discussed by the Railway Board with the Agent in March and the rest of the works programme in July or August.

The programmes dealt with three year periods when the Acworth Committee reported. At the present moment the programmes are prepared only for yearly periods owing to the uncertainties of the immediate future. These programmes are no longer sent to the Secretary of State for his approval but are placed before the Standing Finance Committee for Railways who scrutinise them in detail.

(b) and (c). The usual procedure was followed in these cases; but I must remind my Honourable friend that the inclusion of any item in the programme is not by itself sufficient authority for incurring expenditure on it. In both these cases separate estimates had to be, and were prepared and submitted by the Agent for scrutiny and sanction by the Railway Board.

ANNUAL EXPENDITURE ON THE RAILWAY CONFERENCE.

559. ***Dr. Ziauddin Ahmad:** (a) Will Government be pleased to state on what page or pages of the Railway Budget are the expenses on the Railway Conference shown?

(b) What is the permanent staff of the Railway Conference? What is the annual expenditure on it? Have Government considered the question of its amalgamation with the Railway Board? If not, why not?

Mr. P. B. Rau: (a) The budget of the Indian Railway Conference Association does not form part directly of the Railway budget. The Association consists of all railway administrations in India working a railway open for passenger traffic that desire to join it and the expenditure is distributed among the railway administrations represented in the proportion of their respective voting powers. The Secretary of the Indian Railway Conference Association is also Director of the Wagon Interchange which is responsible for controlling the movement and distribution of broad gauge wagons among the nine railways which form part of the pool in order to get the maximum loading with a minimum of stock. A separate branch of the Conference office called the Neutral Control Branch checks the condition of wagons at certain junctions of interchange between the different railways in order to accelerate the movement of wagons through those junctions and to minimise disputes. The total cost of the Association, including the Wagon Interchange and Neutral Control Branches, amounted to Rs. 3,95,000 in 1931-32.

(b) The total staff of the Indian Railway Conference Association, including all these various branches, consists of four superior officers, 281 subordinates and 267 inferior staff. The present cost is, as I have already stated, Rs. 3,95,000. From the description of the work done by the Indian Railway Conference Association it will be obvious that it is not a work that can be taken over by the Railway Board. The Association includes among its membership a number of railways with the administration of which the Railway Board has no concern.

WORK DONE IN THE CENTRAL STANDARDS OFFICE.

560. ***Dr. Ziauddin Ahmad:** For how many years was the Standard Office established? What work is it doing now? For how many years do Government propose to continue it?

Mr. P. R. Rau: The Central Standards Office was established in January, 1930, on a temporary basis for five years. It deals with the preparation of Standard Drawings and designs for Permanent Way, Bridges, Signal and Interlocking Locomotives and Rolling Stock; also standard specifications for railway materials.

The question of its continuance or otherwise after the initial period of five years has not been considered yet.

AVERAGE RATE OF INTEREST ON BORROWINGS FOR EXPENDITURE ON INDIAN RAILWAYS.

561. *Dr. Ziauddin Ahmad: (a) What was the average rate at which money was borrowed for the expenditure on Indian Railways in the year 1920? Was it not at 8½ per cent.?

(b) What was the average rate of interest on Railway borrowings in 1932? Was it not 5·7 per cent.?

(c) What is the Government rate of interest now?

(d) What action do the Railway Board propose to take to reduce the rate of interest to the market rate of interest, i.e., four per cent.?

(e) How many crores will the Railway Board save, if the average rate of the borrowings be converted to the rate of interest at which Government are now borrowing money?

Mr. P. R. Rau: (a) and (b). The interest charged to railway revenues is composed of the following items:

- (i) Interest on specific railway debt which consists mainly of stock issued or liabilities undertaken at the time of the purchase of the old Guaranteed Railway Companies;
- (ii) Interest on capital contributed by Railway Companies;
- (iii) Interest on other capital which has been provided by Government from various sources.

The last is calculated as follows:

- (i) At the fixed rate of 3·3252 per cent. per annum on capital provided up to the end of 1916-17;
- (ii) On all capital provided subsequently at a rate intended to represent the average rate of interest on Government borrowings during the period beginning with 1917-18, after allowing for the income-tax free concession, cost of management of debt, etc. The rate for 1931-32 was 5·65 per cent. and the estimated rates for 1932-33 and 1933-34 are 5·53 per cent. and 5·48 per cent. respectively.

In round figures it may be stated that the specific debt in 1933-34 amounts to 179 crores and the interest thereon to 6 crores. The capital contributed by Companies amounts to 40 crores and the interest thereon to 1·8 crores. The capital contributed by Government up to the end of 1916-17 amounts to 273 crores and the interest thereon to 9 crores. Finally, the capital contributed between 1917-18 and 1933-34 both years inclusive amounts to 302 crores and the interest thereon to 16½ crores.

(c) The redemption yield on the last conversion loan floated by the Government of India is 4·8 per cent. .

(d) As pointed out in reply to parts (a) and (b) of my Honourable friend's question, since the rate paid to general revenues is the average rate of interest on Government borrowings since 1917-18 every fall in the rate at which Government is borrowing at present will be reflected in the rate charged to Railways; for example the average has fallen from 5.65 per cent. in 1931-32 to 5.48 per cent. in 1933-34.

(e) From the data given by me this is a simple arithmetical problem, for which I am sure my Honourable friend does not require my assistance to find a solution, but I would point out that the result will be entirely academic because Government loans cannot be paid before fixed dates, so that it is only in the case of loans which can be repaid in the near future that Government can convert without the necessity of paying a premium which would largely neutralise the advantages of conversion. I should add, however, that the point emphasised by my Honourable friend of the desirability of reducing rates of interest whenever possible has not been, and will not be, lost sight of by Government.

APPOINTMENT OF MUSLIMS AS ASSISTANT SURGEONS ON THE EAST INDIAN RAILWAY.

562. ***Shaikh Fazal Haq Piracha:** (a) Will Government be pleased to state how many Assistant Surgeons are employed on the East Indian Railway, and how many of them are Muslims?

(b) Are Government aware that four posts of Assistant Surgeons are advertised to be filled on the East Indian Railway?

(c) Do Government propose to draw the attention of the Agent, East Indian Railway, to the desirability of filling all the four posts by Muslims to redress communal equality?

Mr. P. R. Rau: (a) There are 16 Assistant Surgeons employed on the East Indian Railway, of whom none is a Muslim.

(b) Yes.

(c) As I informed the House last week a copy of the question has been sent to the Agent, East Indian Railway, who is competent to make these appointments, for such action as he may deem necessary. He is aware of Government's policy with regard to preventing a preponderance of any class or community in the railway services.

TIME TAKEN BY PILGRIM SHIPS AND NON-PILGRIM SHIPS FROM JEDDAH TO BOMBAY AND KARACHI AND VICE VERSA.

563. ***Shaikh Fazal Haq Piracha:** (a) Will Government be pleased to state how many days does a pilgrim ship normally take to reach Jeddah from Bombay and Karachi and vice versa?

(b) How many days does it normally take a non-pilgrim passenger ship to reach Jeddah from Bombay and Karachi and vice versa?

(c) Why is there so much difference in journey days between a pilgrim and a non-pilgrim ship for so short a journey?

(d) Are Government aware that the pilgrims in a pilgrim ship, who are placed in uncomfortable conditions, feel great inconvenience and trouble in remaining packed up on board the ship for so many days, and that the less the days spent on their journey, the less is the trouble to them?

Mr. G. S. Bajpai: (a) A pilgrim ship normally takes 13 days to perform the voyage between Bombay and Jeddah *via* Karachi. The direct voyage between Bombay and Jeddah or Karachi and Jeddah takes 10 days.

(b) and (c). There are very few sailings of non-pilgrim passenger steamers from Bombay or Karachi to Jeddah. The steamers making the voyage are generally the same as those which ply as pilgrim ships during the pilgrim season. The duration of the voyage is also the same, subject to slight variations on account of weather conditions during different seasons.

(d) It would naturally be more convenient for the passengers if the voyage could be shortened.

Mr. K. Ahmed: Comparing the distance from Bombay to Jeddah with the distance from Bombay to Marseilles, and considering that it takes only fourteen days to go to Marseilles from Bombay, will Government say what is the speed at which these boats to Jeddah go?

Mr. G. S. Bajpai: I do not know exactly the speed at which they go, but it is obvious that the mail boats are much faster.

Mr. K. Ahmed: In view of the fact that the distance to Marseilles is nearly three times as much, and in view of the fact that it takes only thirteen days to go to Marseilles, will Government say what are the reasons for taking as much as 15 days from Bombay to Jeddah?

Mr. G. S. Bajpai: The reason is obvious: mail boats are faster than the pilgrim ships.

Mr. K. Ahmed: My Honourable friend must know that even ordinary ships take only fourteen days to go to Marseilles. Is he in a position to intimate to Turner Morrison and Co. and other Companies that ships going to Jeddah from Bombay and other ports should increase their speed and go a little faster, so that the hardship to passengers may not continue and probably more people may go to Jeddah?

Mr. G. S. Bajpai: I am not sure whether my Honourable friend appreciates the fact that even the Government of India cannot make ships go at a more rapid pace than they are capable of.

Mr. K. Ahmed: In view of the fact that my Honourable friend the Leader of the European Group, Sir Leslie Hudson, is in a better position than the Government to see that ships can be made more speedy, will he kindly be pleased to see that ships go at a somewhat more speedy rate and not at the present very slow rate, one consequence of which is that there are more deaths taking place on the deck than would otherwise be the case?

Mr. G. S. Bajpai: I am not sure whether that question is addressed to me or to Sir Leslie Hudson.

Mr. K. Ahmed: Will the Government see that ships proceed somewhat faster than they have been doing for the last century and that they do this distance in less time?

Seth Haji Abdoola Haroon: Will Government be pleased to arrange with the Shipping Companies to see that these pilgrim ships go from Karachi to Jeddah and also from Bombay to Jeddah direct, because, when these ships come from Bombay to Karachi, sometimes there are very few passengers, and similarly there are very few passengers from Karachi to Bombay when these ships return from Jeddah?

Mr. G. S. Bajpai: My Honourable friend does not seem to appreciate that the Shipping Companies have no contract with Government. What Government can do is to make suggestions to Shipping Companies, and I am quite prepared to put the point, which the Honourable Member has raised just now, to Messrs. Turner Morrison & Co. I shall also take this opportunity of answering the somewhat involved statement of my friend behind me. As I have stated more than once, Government are in no position to accelerate the speed of ships, and, therefore, it is not possible to take the action suggested by him.

Mr. K. Ahmed: If the Steamer Companies do not comply with the request of the Government of India, sufficient steps can be taken against these Companies. Are the Government of India aware of that? (Laughter).

(No reply).

RULES FOR LIMITING THE SPEED OF PILGRIM SHIPS.

561. ***Shaikh Fazal Haq Piracha:** Are there any rules regarding the keeping of a maximum or minimum speed limit of pilgrim ships? If not, are Government prepared to consider the desirability of framing such rules that may compel the steamship companies to complete their journey from Indian pilgrim ports to Jeddah in the least possible number of days in normal times?

Mr. G. S. Bajpai: There is a rule that pilgrim ships sailing between May 20th and September 20th in any year must be capable of steaming at least eight knots an hour in ordinary monsoon weather. The second part does not arise.

EMPLOYMENT OF MORE MUSLIMS ON PILGRIM SHIPS DURING THE HAJ SEASON.

565. ***Shaikh Fazal Haq Piracha:** (a) Will Government be pleased to state the names and number of ships, working as pilgrim ships this year at Bombay and Karachi, and also state how many Muslim doctors, compounders, clerks and cabin boys are serving on each ship for the convenience of the pilgrims? How many of them are non-Muslims?

(b) Are Government aware that Muslim employees on a pilgrim ship can be more serviceable, sympathetic and useful to the pilgrims of their own religion?

(c) Are Government prepared to consider the question of making rules to compel the pilgrim steamship companies to keep a good number of Muslim employees during the Haj season?

Mr. G. S. Bajpai: (a) The pilgrim fleet of the Mogul Line, which is the only Line at present engaged in the pilgrim traffic from India, comprises eight steamers, namely, *S.S. Akbar*, *S.S. Alavi*, *S.S. Dara*, *S.S. Jehangir*, *S.S. Khosrau*, *S.S. Rahmani*, *S.S. Riswan* and *S.S. Shuja*.

The Government of India are not in possession of information as to the number of Muslims and non-Muslims employed for service on each of these ships.

(b) and (c). The Government of India recognise the desirability of the shipping company employing, as far as possible, Muslims for service on pilgrim ships, provided suitably qualified persons are available. The matter has already been brought to the notice of the shipping company and it is proposed to make rules with a view to ensuring, as far as possible, the employment of suitable Muslims as medical officers and hospital attendants.

NURSES KEPT IN PILGRIM SHIPS AT INDIAN PILGRIM PORTS.

566. *Shaikh Fazal Haq Piracha: Will Government be pleased to state if the pilgrim ships at Indian pilgrim ports are keeping nurses for the convenience and service of the female pilgrims?

Mr. G. S. Bajpai: Under the existing rules, a pilgrim ship engaged to carry more than 100 pilgrims is required to employ one female attendant to assist the medical officer if there are any female pilgrims on board. In connection with a recommendation made by the Haj Inquiry Committee, the Government of India propose to make a new rule laying down that, whenever possible, there should be a qualified nurse or midwife, preferably a Muslim, in addition to a female attendant, on every pilgrim ship carrying female pilgrims.

CHARGES FOR SINGLE AND RETURN FIRST, SECOND AND DECK CLASS TICKETS ON PILGRIM SHIPS FROM BOMBAY AND KARACHI TO JEDDAH.

567. *Shaikh Fazal Haq Piracha: (a) Will Government be pleased to state separately the charges for single and return first, second and deck class tickets on a pilgrim ship from Bombay and Karachi to Jeddah?

(b) Are Government in a position to state the reasons for keeping so high a difference between a return and a single fare ticket?

(c) Do Government have any hand in fixing the fares? Are Government prepared to consider the desirability of compelling the companies to keep a reasonable difference between a return and single journey ticket to encourage the pilgrims to buy single tickets in their interest, for their convenience to return from Jeddah by any ship that may be available?

Mr. G. S. Bajpai: (a) The steamer fares for pilgrims are liable to fluctuation, but the maximum fares at present charged by Messrs. Turner, Morrison & Co., Ltd., from Bombay and Karachi, are shown in a statement which I lay on the table.

(b) The grant of a concession to pilgrims who purchase return tickets is in accord with ordinary commercial practice.

(c) Government have no legal power to control the fares and do not propose to take such power. The purchase of a return ticket is not obligatory. If a pilgrim travelling as a deck passenger does not wish to purchase a return ticket in order that he may be free to return from Jeddah by any ship that may be available, he is at liberty to purchase a single ticket provided that he deposits a sum of Rs. 50 with the Commissioner of Police, Bombay, or the Protector of Pilgrims, Karachi, for the purpose of defraying the cost of the return passage.

The maximum fares at present charged by Messrs. Turner, Morrison & Co., Ltd., from Bombay and Karachi are as follows :

		Rs.
First class—		
(i) with food	Single	450
	Return	650
(ii) without food	Single	375
	Return	550
Second class—		
(i) with food	Single	350
	Return	525
(ii) without food	Single	300
	Return	450
Deck—		
(i) with food	Single	140
	Return	215
(ii) without food	Single	110
	Return	160

RETURN OF HAJ PILGRIMS FROM JEDDAH BY HANSA LINE (GERMAN) STEAMERS.

568. ***Shaikh Fazal Haq Piracha:** Is it a fact that last year, while returning, some Haj pilgrims from Jeddah came by Hansa Line (German) steamers? Are Government aware of the reason why they preferred to travel by that line?

Mr. G. S. Bajpai: Government understand that 58 pilgrims returned from Jeddah by German ships owing to the shortage of first and second class accommodation in ships of the Mogul Line.

TRAVELLING OF INDIAN HAJ PILGRIMS BY SHIPS OTHER THAN THOSE OF MESSRS. TURNER, MORRISON AND COMPANY.

569. ***Shaikh Fazal Haq Piracha:** (a) Is it a fact that Government have been devising means to discourage travelling by steamers other than those of Turner Morrison? If not, are Government prepared to request His Majesty's Minister at Jeddah to arrange, whenever possible, to send the Indian Haj pilgrims by steamers other than those of Turner Morrison that may touch the Jeddah port?

(b) Will Government be pleased to lay on the table of this House the correspondence that took place between the Government of India and His Majesty's Minister at Jeddah, on the subject of travelling of Indian Haj pilgrims by ships other than those of Turner Morrison?

Mr. G. S. Bajpai: (a) The answer to the first part is an emphatic negative. There is nothing to prevent Indian pilgrims from booking passages for the return journey by ships of any other Line that may be available at Jeddah provided that the ships comply with the statutory provisions applicable to pilgrim ships. The Government of India do not consider that any instructions are needed to His Majesty's Minister at Jeddah.

(b) There has been no such correspondence.

ADOPTION OF THE SYSTEM OF GIVING CONTRACTS FOR CARRYING PILGRIMS TO HEDJAZ.

570. ***Shaikh Fazal Haq Piracha:** (a) Are Government aware that the Egyptian Government give every year a contract by tender system to shipping companies for carrying pilgrims to Hedjaz?

(b) Are Government prepared to consider the question of adopting the system of giving contract for carrying pilgrims to Hedjaz to such shipping companies as may be prepared to charge the lowest amount of fare?

Mr. G. S. Bajpai: (a) Government have no information beyond what is contained in paragraph 132 of the Report of the Haj Inquiry Committee.

(b) The question has already been considered. The Haj Inquiry Committee were definitely against the introduction in India of the tender system and their opinion was accepted by Government.

INCOME FROM CUSTOMS CHARGED FROM THE HAJ PILGRIMS FOR ARTICLES IMPORTED BY THEM.

571. ***Shaikh Fazal Haq Piracha:** Will Government be pleased to state the approximate income for the last three years of the customs charged from Haj pilgrims for articles imported by them from Hedjaz on their return?

The Honourable Sir George Schuster: I regret that the information is not on record.

ISSUE OF CONCESSION TICKETS FOR POOR PILGRIMS BY MESSRS. TURNER, MORRISON AND COMPANY.

572. ***Shaikh Fazal Haq Piracha:** (a) Is it a fact that every year Messrs. Turner Morrison used to issue two or three hundred concession tickets for poor pilgrims in their pilgrim ships?

(b) Are Government aware that, when requested this year, Mr. E. Brown, Managing Director, Messrs. Turner Morrison, Bombay, refused to issue such tickets, on the plea that the Government had disallowed the issue of such tickets?

(c) Is there any truth in the matter? If not, do Government propose to enquire from the Managing Director why he accused the Government?

(d) Has an article on this matter, which appeared in the *Daily Inqilab* of Lahore, been brought to the notice of Government?

Mr. G. S. Bajpai: (a) Tickets at reduced rates have been issued occasionally by Messrs. Turner, Morrison and Co., Ltd.

(b), (c) and (d). Government made enquiries as soon as the article in the *Inqilab* of the 26th December, 1932, came to their notice. They were informed that Mr. Brown had referred to the views of the Haj Inquiry Committee who were opposed to the grant of any concession.

INCONVENIENCE CAUSED TO PILGRIMS AT BOMBAY AND KARACHI.

573. ***Shaikh Fazal Haq Piracha:** Are Government aware that the pilgrims, when they enter the pilgrim ships at Bombay and Karachi, feel great trouble as only one ladder is kept for going into the ship? Are Government prepared to issue instructions to the port authorities to keep more than two ladders?

Mr. G. S. Bajpai: An enquiry has been made from the Government of Bombay and the result will be communicated to the House on receipt of the Local Government's reply.

UTILISATION OF MONEY OF THE RETURN TICKETS OF FIRST AND SECOND CLASS PILGRIMS WHO FOR LACK OF ACCOMMODATION TRAVEL AS DECK PASSENGERS FROM JEDDAH.

574. *Shaikh Fasal Haq Piracha: Will Government be pleased to state as to where goes the money of the return tickets of the first and second class pilgrim passengers, who, on account of lack of accommodation, travel as deck passengers from Jeddah?

Mr. G. S. Bajpai: The difference between the cost of the return half of a first or second class ticket and the cost of a deck passage is retained by the shipping company, if a pilgrim decides of his own accord to travel as a deck passenger by the first available boat instead of waiting at Jeddah for higher class accommodation, to which his ticket entitles him, in a later boat.

PAUCITY OF MUSLIMS IN THE LEGISLATIVE DEPARTMENT.

575. *Shaikh Fasal Haq Piracha: (a) Is it a fact that there are very few Muslims employed in the Legislative Department?

(b) Will Government be pleased to state the number of assistants, clerks, daftries and chaprasis of each community serving in the Legislative Department?

(c) Will Government be pleased to state the number of title holders in the Legislative Department?

(d) Is it a fact that there is not a single Muslim clerk serving in the Cash Branch of the Legislative Department?

Mr. D. G. Mitchell: (a) No. The number is 20.

(b) A statement is placed on the table giving the information desired.

(c) If the Honourable Member refers to holders of Indian titles, the answer is four.

(d) Yes.

Statement showing the number of Assistants, Clerks, Daftries and peons (including Jamadars and Dafadars) of each community serving in the Legislative Department.

Classes of posts.	Hindus.	Muslims.	Sikhs.	Europeans and Anglo-Indians.	Indian Christians.	Other communities.	Total.
Assistants . . .	11	2		5	..	..	18
Clerks . . .	16	5	1	2	1		25
Daftries . . .	4	4	..	..	1	..	9
Peons . . .	45	9	..	..	..	..	54

AMOUNT SPENT EACH YEAR ON STATIONERY REQUIRED IN THE LEGISLATIVE DEPARTMENT.

576. ***Shaikh Fazal Haq Piracha:** (a) Will Government state the amount spent each year on stationery required in the Legislative Department, how much of it remains unspent at the end of the year, and what does it amount to?

(b) Will Government state the amount spent each year on stationery for the Council of State, separately on pen, pencil, paper, ink, etc.?

Mr. D. G. Mitchell: (a) The amount spent on stationery for the Legislative Department and the Council of State together, during the last three years, is as follows:

										Rs.
1929-30	.	.	.	.	.	.	.	.	.	2,300
1930-31	.	.	.	.	.	.	.	.	.	2,500
1931-32	.	.	.	.	.	.	.	.	.	2,000

Approximately one-fourth of the quantity of stationery supplied in a year remains unspent at the end of that year and this is consumed during the period intervening between the close of the year and the date of the next year's supply.

(b) Separate accounts are not kept of the stationery consumed in the Legislative Department and the Council of State, nor is it possible to furnish information as to the amount spent on each item of stationery separately without an amount of research wholly out of proportion to the value of the result.

PROTECTION OF INDIAN LIFE AND PROPERTY IN NATIVE RESERVES IN TANGANYIKA.

577. ***Mr. Gaya Prasad Singh:** (a) Has the attention of Government been drawn to an article in the *Tanganyika Opinion*, dated the 20th January, 1933, under the heading "Protection of Indian Life and Property in Native Reserves" at page 14?

(b) Is it a fact that at Kaboyo in the Protectorate of Uganda, Indian shopkeepers were insulted, beaten and threatened by natives in the Reserve?

(c) Have Government noted the allegation that the Native Chief is stirring up breach of peace against Indian shopkeepers?

(d) What steps, if any, have been taken towards alleviating the sufferings of the Indian merchants?

Mr. G. S. Bajpal: (a)—(d). The article presumably refers to the incident which formed the subject-matter of Honourable Member's question No 344 which I answered on the 20th February, 1933. The Federation of Indian Chambers of Commerce of East Africa is reported to have taken up the matter. The Government of India have not been approached.

OPPOSITION OF GERMANY TO THE FORMATION OF A POSTAL UNION IN EAST AFRICA.

578. ***Mr. Gaya Prasad Singh:** (a) Has the attention of Government been drawn to a Reuter's news under the heading "Germany Opposes Postal Union in East Africa", as published in the *Tanganyika Opinion*, dated the 27th January, 1933, at page 4?

(b) Have Government noted the reasons which have prompted the German Colonial Association to oppose the Postal Union now in force since 1st January, 1933, in East Africa?

(c) Are Government prepared to take steps to assist the Indian community of Tanganyika by making representations to the Permanent Mandates Commission of the League of Nations and to the Permanent Court of International Justice under Article 14 of the Mandate of Tanganyika and under Article 13 of the same Mandate read with Article 14 of the Covenant of the League of Nations?

Mr. G. S. Bajpai: (a) and (b). Yes.

(c) The attention of the Honourable Member is invited to the reply given by me on the 20th February, 1933, to his starred question No. 342.

OPPOSITION OF GERMANY TO THE FORMATION OF A POSTAL UNION IN EAST AFRICA.

579. ***Mr. Gaya Prasad Singh:** (a) Has the attention of the Government been drawn to the following:

- (i) leading article in the *Tanganyika Opinion* of the 27th January, 1933, at page 9 under the heading "Unification with a Vengeance";
- (ii) an article under the heading "Customs Union to Follow Postal Union in East Africa" in the *Tanganyika Opinion* of the 27th January, 1933, at page 18 and a Reuter's news under the heading "Bitter German Opposition" at the same page in the same issue of the said paper; and
- (iii) an article under the heading "First Fruits of Postal Union for Tanganyika Tax Payers" in the *Tanganyika Opinion*, dated the 27th January, 1933, at page 14?

(b) Will Government kindly state whether they are prepared to take action immediately against the threatened Customs Union of Tanganyika with Kenya and Uganda?

Mr. G. S. Bajpai: (a) Government have seen the articles referred to by the Honourable Member.

(b) Government have made inquiries with a view to deciding what action, if any, on their part is called for.

ILLICIT TRAFFIC IN SILVER BULLION.

580. ***Mr. Gaya Prasad Singh:** (a) Is it a fact that a large illicit traffic in silver bullion has developed not only across the frontiers of the foreign possessions in South India, but also across the North Eastern and North Western Frontiers of India?

(b) Is it a fact that as a result of this illicit smuggling, Government have lost a large amount of revenue? If so, how much approximately?

(c) Have the Central Board of Revenue issued any notification under the Land Customs Act prohibiting the import of silver into India by land, except through authorized routes on the North Eastern Frontier in Burma, where customs barriers were established?

(d) Have the land barriers in respect of foreign possessions in South India been reinforced by additional patrols, but the staff required costs so much as to exceed the loss of revenue thus prevented?

(e) Are Government considering the question of prohibiting the import of silver from Afghanistan, except for legitimate trade purposes; and will they be pleased to make a statement on the subject?

The Honourable Sir George Schuster: (a) There is a considerable amount of smuggling of silver bullion across the frontiers of the French Settlements in Southern India, and there are reasons to believe that very large quantities of silver—mostly coin—have been imported across the North-Eastern and North-Western frontiers of India.

(b) It is impossible to estimate the amount of revenue actually lost by smuggling. Large quantities of silver were imported from China across the Burmese frontier last summer and there was definite evidence that much larger quantities were on their way. This forced the Government to close that route. It does not of course follow that silver which has entered India without paying duty either by being smuggled or because advantage has been taken of the absence of a land-customs line would have entered India at all if it had had to pay duty because the attraction which brings in the smuggled imports is the profit which the evasion of duty makes possible. Therefore estimates in terms of revenue lost must be merely hypothetical and fictitious.

(c) The effect of certain notifications issued by the Government of India and by the Central Board of Revenue is as described in this part of the question.

(d) Since silver bullion and coin became dutiable expenditure amounting to about Rs. 20,000 per annum has been incurred on strengthening the land customs establishment on the Pondicherry Frontier. I cannot say that the expenditure incurred exceeds the loss of revenue that has been prevented.

(e) The Government of India have this question under close consideration but are not in a position to make any definite announcement upon the subject.

MODIFICATION OF THE COMMUNAL AWARD AFTER THE SEPARATION OF ORISSA.

581. ***Mr. Gaya Prasad Singh:** Is it in contemplation to modify the Communal Award so far as Bihar is concerned, after the separation of Orissa from it? If so, in what way?

The Honourable Sir Brojendra Mitter: The decision to constitute a separate Orissa province entails a modification of the Communal Award in respect of Bihar and Orissa. Such modification, however, is a matter entirely for His Majesty's Government.

HEAVY TRAFFIC OF COCAINE AND CHARAS IN DELHI.

582. *Mr. S. G. Jog: (a) Are Government aware that in Delhi there is a heavy traffic of cocaine and *charas* to a dreadful extent causing awful misery to the public health, especially for the last four or five years, and that the excise staff comprises nearly half a dozen men, i.e., one Excise Officer, one Excise Inspector, two or three Excise Sub-Inspectors and one Excise Clerk?

(b) Are Government aware that the respected residents of those streets and lanes where cocaine and *charas* are freely sold day and night feel much inconvenienced and troubled owing to the heavy traffic of such smugglers and that they have complained many times to the Excise Officer to take effective action, but no heed has been paid to redress their grievances?

(c) Will Government be pleased to state by how much Government revenue has decreased in *charas* shops' auction in 1932 as compared with the previous year 1931 owing to this *charas* smuggling in Delhi?

(d) Is it a fact that the above excise clerk [referred to in part (a)] is a resident of Delhi and is working in the Excise Office from the year 1925, and are Government aware that he has much influence with the local smugglers?

(e) Is it a fact that this excise clerk was transferred from the excise to some other department in 1929, but that the Excise Officer and Excise Inspector tried their best to call him back after four or five months only and that since then he is again in the same office?

The Honourable Sir George Schuster: With your permission, Sir, I will reply to questions Nos. 582 and 583 together.

Enquiries are being made and the information asked for by the Honourable Member will be laid on the table in due course.

HEAVY TRAFFIC OF COCAINE AND CHARAS IN DELHI.

†583. *Mr. S. G. Jog: (a) Is it a fact that the same excise staff has been in Delhi for the last five or six years? If so, will Government be pleased to state why they have not been transferred?

(b) Do Government propose to entrust the suppression of cocaine and *charas* traffic direct to the C. I. D. and its new C. I. A. Departments?

(c) Are Government prepared to commend to the present officials in Delhi to follow the example and policy of Mr. G. M. Young, I.C.S., ex-Deputy Commissioner of Delhi who took personal interest in such matters?

ALLEGED CORRUPTIONS IN THE DELHI NAZUL DEPARTMENT.

584. *Mr. S. G. Jog: (a) Is it a fact that the Excise Officer, Delhi, is also in charge of the Nazul Department of Delhi (as a Nazul Officer)?

(b) Are Government aware that for the last four or five years there are many complaints of the Delhi public about the corruption in this Nazul Department also and that they have brought this fact to the notice of the Nazul Officer many times, but nothing has been done to remove the corruption?

†For answer to this question, see answer to question No. 582.

(c) Are Government aware that if any member of the public brings any complaint against any person of the Nazul Department, the Nazul Officer does not pay any heed to it and treats such persons badly instead of making any enquiry into the matter?

(d) Are Government aware that this corruption is not even limited to the public only, but that it is even affecting Government revenue as well?

(e) Is it a fact that the Nazul Superintendent has misappropriated Government money? If so, will Government be pleased to state the full history, showing how much Government money he has misappropriated and how and when Government realised that money from him?

Mr. G. S. Bajpai: Enquiries have been made from the Local Administration, and a reply will be laid on the table of the House in due course.

MILEAGE OF THE NORTH WESTERN, EAST INDIAN AND EASTERN BENGAL RAILWAYS.

585. *Dr. Ziauddin Ahmad: What is the mileage of the North Western (including strategic lines), East Indian and Eastern Bengal Railways?

Mr. P. R. Rau: The route mileage open on the 31st March, 1932, was as follows:

North Western (including strategic lines) Railway system	7,092
East Indian Railway system	4,348
Eastern Bengal Railway system	1,947

APPOINTMENT OF ONE AGENT FOR THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

586. *Dr. Ziauddin Ahmad: (a) Is it a fact that the Agent of the East Indian Railway is soon going to retire?

(b) Is it not a fact that the present Agent of the Eastern Bengal Railway has acted for some time as Agent of the East Indian Railway?

(c) Do Government propose, as a measure of economy, to entrust the work of both the lines to one Agent? If not, why not?

Mr. P. R. Rau: (a) and (b). Yes.

(c) Government have not lost sight of the possibilities of savings that may be effected through suitable amalgamations of existing railway systems. As my Honourable friend is no doubt aware, the opportunity was taken on the termination of the contracts of the East Indian and the Great Indian Peninsula Railways Companies in 1925 to carry out such an amalgamation with the result of the abolition of the Oudh and Rohilkhand Railway as a separate administration. The amalgamation of the East Indian and Eastern Bengal Railway Administrations presents, however, special administrative difficulties as the former is, apart from mileage, much the biggest railway system in India and the addition of a line of considerable length and with different and difficult problems of its own, like the Eastern Bengal Railway, might make the system unwieldy. A redistribution with the object of eliminating one railway administration might be easier when the Bengal and North Western Railway or the Assam Bengal Railway is taken over by Government, as in that case it may be possible

to combine the metre gauge portion of the Eastern Bengal Railway with the other metre gauge systems and to hand over the broad gauge system to the East Indian Railway. Government recognise, however, that the suggestion is one that deserves serious consideration and it will be carefully considered, but they must at the same time make it clear that the facts mentioned in the first two parts of this question are by themselves insufficient grounds for considering such an amalgamation.

REPORT OF THE MISRA COMMITTEE ON THE POSITION AND SALARY OF TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

587. ***Dr. Ziauddin Ahmad**: Will Government be pleased to lay on the table or in the Library a copy of the report of the Committee presided over by Mr. Misra, Deputy Agent, East Indian Railway, on the position and salary of T. T. Es.? When was the report submitted to the Railway Board? Was the report lost in the office or by a Member of the Railway Board? Did the Railway Board obtain a duplicate copy of the report?

Mr. P. B. Rau: The report is a confidential report and not meant for publication. Government are unable to place a copy of it in the Library.

2. It was submitted in August last.

3. It is true that a copy was mislaid in the office of the Railway Board, but it was a printed report, and there was no difficulty in obtaining additional copies.

ALLEGED LACK OF ADMINISTRATION AND SUPERVISION OF THE SUPERINTENDENT OF EDUCATION, DELHI.

588. ***Kunwar Hajeer Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Has the attention of Government been drawn to the article published in the *Weekly Mulk of Azamgarh*, No. 1, dated the 8th January, 1933, about the lack of administration and supervision of the Superintendent of Education, Delhi? If not, do Government propose to see the article?

(b) Is it a fact that the Educational Code of the Punjab, followed in the Delhi Province, provides that before granting recognition to any institution it should be seen by the inspecting officers that there is no undesirable person on the staff of the institution?

(c) Is it a fact that in spite of the knowledge that a Head Master taking part in anti-Government movements and who has been condemned by the Educational authorities of another province was kept in an institution, the institution was inspected and recognised by the present Superintendent of Education, Delhi, or on his recommendation by the Secondary Education Board, Delhi?

Mr. G. S. Bajpai: (a) No.

(b) Yes.

(c) Enquiries are being made and a reply will be furnished to the House as soon as possible.

HIGH SCHOOLS RECOGNISED BY THE SECONDARY EDUCATION BOARD, DELHI.

589. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) How many high schools were recognised by the Secondary Education Board, Delhi, on the recommendation of the Inspection Committee, after the appointment of the present Superintendent of Education? What are the names of those schools and by which community are they maintained?

(b) Is it a fact that the Inspection Committee of the Board consists of three members, viz., (1) the Superintendent of Education, who works as Chairman, (2) a nominee of the Superintendent of Education, who generally nominates his subordinate—the District Inspector of Schools, and (3) a nominee of the Board?

(c) Is it a fact that at least in one of the high schools recognised in 1931-32, the Head Master was a man who was condemned by the authorities of the Punjab Education Department for taking part in anti-Government movements?

(d) Is it a fact that the Superintendent of Education, Delhi, was informed about the activities of the Head Master mentioned in part (c) above, and he made an enquiry from the Inspector of Schools, Ambala Division? If so, will Government be pleased to lay on the table a copy of the letter in which the antecedents of the Head Master were inquired into and a copy of the letter from the Inspector of Schools, Ambala Division, in reply to the enquiry?

(e) Is it a fact that after receiving the reply from the Inspector of Schools, Ambala, the Superintendent of Education did not ask the school management to terminate the services of the Head Master, but went with the Inspection Committee of the Board and recommended recognition to the School?

(f) Do Government propose to give an assurance that in future rules will not be violated and that undesirable teachers, condemned by the educational authorities of the neighbouring provinces, will not be allowed to work in the Delhi Province?

Mr. G. S. Bajpai: Enquiries are being made and a reply will be furnished to the House as soon as possible.

SUPERINTENDENT OF THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

590. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the appointment of the Superintendent of the office of the Postmaster General, Punjab and North-West Frontier Circle, has been held exclusively by Hindus for the last twenty-five years?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state the names of the next two officials of the office of the Postmaster General, Punjab and North-West Frontier Circle, eligible for promotion as Superintendent according to the existing system of restricting promotions to the Circle officials?

(c) Will Government be pleased to state the name of a Muslim who can hold the Superintendent's post, according to the existing procedure, and how many years hence approximately will he hold the post?

The Honourable Sir Frank Noyce: (a) to (c). I would remind the Honourable Member that I have already given him most of the information for which he asks, in reply to his starred questions Nos. 1448 and 1680 on the 28th November and on the 14th December, 1932, respectively. Government are not in a position to furnish in advance information regarding eligibility of officials for promotion as this is determined when the occasion for it actually arises.

HEAD CLERKS IN THE OFFICE OF THE POSTMASTER GENERAL, PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

591. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that twelve out of the thirteen appointments of Head Clerks in the Office of the Postmaster General, Punjab and North-West Frontier Circle, are held by Hindus?

(b) Is it a fact that according to the seniority list there is absolutely no chance for a Muslim of the office of the Postmaster General, Punjab and North-West Frontier Circle, being promoted as Head Clerk of the same office?

(c) Is it a fact that the following officials belonging to the Circle were imported to the said Circle Office:

(1) Mr. Ghulam Nabi Aziz, (2) Mr. Mohd. Jamil, (3) Mr. Jainti Pershad, (4) Mr. Achhramal?

(d) Is it also a fact that the following officials were transferred from the said Circle Office to the Circle:

(1) Mr. Hakumat Rai, (2) Mr. Jamita Ram, (3) Mr. Chander Bhan, (4) Mr. Ghulam Nabi Aziz, (5) Mr. Iqbal Nath?

(e) Are Government prepared to order that the Selection Grade appointments in the Circle and Circle Offices should be made interchangeable in order to remove communal inequalities?

The Honourable Sir Frank Noyce: (a) to (c). The Honourable Member is referred to the reply given by me on the 14th December, 1932, to his starred question No. 1681 in which the same information was asked for.

APPOINTMENT OF THE APPOINTMENT CLERK IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE OFFICE FROM COMMUNITIES DIFFERENT FROM THOSE TO WHICH THE SUPERINTENDENT BELONGS.

592. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Postmaster General, Punjab, has issued a standing order to the effect that in the Divisions, Superintendents of Post Offices and their Head Clerks should belong to different communities?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state the reasons for which the above procedure is not followed in the Punjab and North-West Frontier Postal Circle, where the Superintendent and the appointment clerk have been both Hindus for the last several years?

(c) Is it a fact that the appointment clerk in the Circle Office is directly responsible to the Office Superintendent and not to the Head Clerk of the Branch?

(d) If the reply to part (c) above be in the affirmative, do Government propose to order that the appointment clerk should be a Muslim so long as the Office Superintendent happens to be a Hindu?

Sir Thomas Ryan: With your permission, Sir, I propose to reply to questions Nos. 592 and 598 together. The Honourable Member's attention is invited to the reply which I gave to his starred question No. 1682 in this House on the 14th December, 1932.

LEAKAGE OF IMPORTANT INFORMATION FROM THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE OFFICE.

593. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that due to leakage of important information from the Punjab and North-West Frontier Circle Office, the Postmaster General had to issue warnings on several occasions?

(b) Is it a fact that quite recently a clerk of the said Circle Office was caught red-handed while intercepting the official document?

(c) Will Government be pleased to state the action taken or proposed to be taken in the matter?

Sir Thomas Ryan: (a) to (c). The Honourable Member's attention is invited to the reply I gave to his starred question No. 1683 in this House on the 14th December, 1932.

SUPERINTENDENTS OF THE RAILWAY MAIL SERVICE DIVISIONS IN THE PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

594. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the charge of both Railway Mail Service Divisions in the Punjab and North-West Frontier Circle is held by non-Muslim Superintendents?

(b) If the answer to part (a) above be in the affirmative, are Government prepared to issue instructions that one of the two Superintendents in the Railway Mail Service Divisions be replaced by a Muslim Superintendent to safeguard the interests of the Muslim employees of the Railway Mail Service Branch?

The Honourable Sir Frank Noyce: (a) Yes, there has been no change in the position since the reply given to the Honourable Member's identical question on December the 14th last.

(b) No, as such postings are not made solely on communal considerations.

RETRENCHMENT IN THE PUNJAB POSTAL CIRCLE.

595. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Government of India issued instructions to the effect that, while retrenching the staff, due regard should be given to the fact that the ratio of each community, as it stood prior to reduction, is maintained?

(b) Is it a fact that the ratio of Muslims and non-Muslims before and after retrenchment in the grades of Rs. 250—350 and Rs. 160—250

in the Punjab Postal Circle is correct as given below? If not, will Government supply correct figures?

(Grade 250—350.)

	Hindus. (Percentage.)	Muslims. (Percentage.)	Sikhs. (Percentage.)	Christians. (Percentage.)
Prior Reduction .	4 (28·6%)	5 (35·7%)	3 (21·4%)	2 (14·3%)
After Reduction .	7 (46·6%)	4 (26·6%)	1 (6·6%)	3 (20%)

(Grade 160—250.)

	Hindus. (Percentage.)	Muslims. (Percentage.)	Sikhs. (Percentage.)	Christians. (Percentage.)
Prior Reduction .	131 (62%)	60 (28%)	14 (7%)	6 (3%)
After Reduction .	139 (66%)	52 (24%)	13 (7%)	6 (3%)

(c) If the reply to part (a) above be in the affirmative, will Government be pleased to state the reasons for infringing Government's orders on the subject?

The Honourable Sir Frank Noyce: With your permission, Sir, I propose to take questions Nos. 595 and 596 together.

These questions were answered by me as recently as the 14th December last, *vide* my replies to the Honourable Member's starred questions Nos. 1685 and 1687 which were given on that date. I would also invite the Honourable Member's attention to the statement laid on the table on the 8th instant in connection with his latter question.

RETRENCHMENT OF SELECTION GRADE OFFICIALS IN THE PUNJAB POSTAL CIRCLE.

596. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that out of 46 Selection Grade officials retrenched in the Punjab Postal Circle, as many as 23 officials (20 Hindus and 3 Muslims) were already on extension of service?

(b) Is it a fact that out of the remaining 23 retrenched officials, who had not yet superannuated, as many as 16 Muslims and 7 non-Muslims were retrenched?

(c) If the reply to parts (a) and (b) above be in the affirmative, will Government be pleased to state what action they propose to take to right the wrong done to the Muslims?

MOSQUE IN THE COMPOUND OF THE KARACHI GENERAL POST OFFICE.

597. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Will Government be pleased to lay on the table a copy of the letter, dated the 15th October, 1932, issued by the Director, Sind and Baluchistan Postal Circle, regarding the use of a mosque in the compound of the Karachi General Post Office, to the Postmaster, Karachi?

(b) Is it a fact that the Director-General, Posts and Telegraphs, in his letter, dated the 16th December, 1932, did not approve of the orders referred to in part (a) above and asked the Director to modify his orders according to his instructions?

(c) Will Government be pleased to lay on the table a copy of the letter dated the 16th December, 1932, issued by the Director General, Posts and Telegraphs, referred to in part (b) above?

The Honourable Sir Frank Noyce: (a) to (c). Government do not propose to place on the table copies of the departmental correspondence to which the Honourable Member refers, but I may explain briefly that certain questions connected with the structure under reference having arisen these were dealt with by an order issued by the Director of Posts and Telegraphs, Sind and Baluchistan Circle. That order appeared to have been inspired by a desire to reconcile as far as possible the requirements of the staff on the one hand and the rights of Government on the other. When the case came under review by the Director General he formed the opinion that the Director's order was of somewhat doubtful correctness, and he therefore instructed the Director that if there should be occasion to pursue the matter he should consult and be guided by the advice of the District Magistrate.

APPOINTMENT OF HEAD CLERKS TO SUPERINTENDENTS OF POST OFFICES FROM COMMUNITIES DIFFERENT FROM THOSE TO WHICH THE SUPERINTENDENT BELONGS.

1598. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): (a) Is it a fact that the Postmaster General, Punjab and North-West Frontier Postal Circle, issued instructions to appoint Head Clerks to Superintendents from communities different from those to which the Superintendents belong in order to minimise the chances of miscarriage of justice?

(b) Will Government be pleased to state the particulars of the Divisions in which the system alluded to in part (a) above is not observed in the Punjab and North-West Frontier Postal Circle?

(c) Will Government be pleased to state the names of the other Circles in which the above system is not observed and, if not, why not?

STATUS OF HEADMASTERS OF RAILWAY INDIAN HIGH SCHOOLS.

599. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Mr. M. Maswood Ahmad): Will Government be pleased to state whether they treat the Headmasters of Indian High Schools as subordinates, while at the same time treating even the Assistants at Oakgrove School, on lesser scale of pay and status, as officers? If so, why?

Mr. P. B. Rau: So far as I am aware, the Assistants at Oakgrove School are not treated as officers, except in the matter of passes, which, as I have already explained, is a concession purely personal to the present incumbents.

Kunwar Hajee Ismail Ali Khan: Are Government paying any contribution to the Oakgrove School?

Mr. P. B. Rau: The expenditure on the Oakgrove School is met from railway revenues.

MOTION FOR ADJOURNMENT.

BAN ON THE HOLDING OF THE INDIAN NATIONAL CONGRESS IN CALCUTTA.

Mr. Chairman (Sir Hari Singh Gour): I have received two notices, one from Mr. Jog and the other from Pandit Sen. Mr. Jog proposes to ask for leave to make a motion for the adjournment of the business of the House today for the purpose of discussing a definite matter of urgent public importance, namely, the reported ban on the holding of the Indian National Congress at the end of March at Calcutta. Does the Honourable Member propose to press his motion for the adjournment of the House?

Mr. S. G. Jog (Berar Representative): Yes, Sir.

Mr. Chairman (Sir Hari Singh Gour): I have to inquire whether any Honourable Member has any objection to Mr. Jog's motion.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): I object to this motion, because I think it is premature as the Mover of this motion has based it on newspaper reports of the ban placed by Government on the holding of the Congress. I have read them carefully and so far as I can see it does not come from any authoritative source, least of all from Government. If there is any statement from Government to that effect, then certainly it will be for the House to pass a motion for adjournment. Therefore, I oppose this motion at this stage.

Mr. S. G. Jog: I should like to make the position clear. This morning I gave notice of two short notice questions. In the meantime I saw in the daily papers about this ban that Government are going to put on the holding of the Congress Session in Calcutta. I want to find out from Government whether the report in the papers is correct and in that respect I have given two short notice questions. I should like to know from the Member in charge whether he is prepared to admit those questions. I for one would like to suspend the moving of my adjournment motion till I get an official reply on this point.

The Honourable Sir Harry Haig (Home Member): Sir, I do not wish to leave the House in any doubt as to the position. The statement published in the newspapers is perfectly correct.

Mr. S. C. Mitra: Was it an inspired statement from the Government?

The Honourable Sir Harry Haig: I think, Sir, the statement on the face of it professes to be based on inquiries in official circles. Those inquiries elicited the facts.

Mr. S. C. Mitra: Did the Government come to the conclusion after hearing also the Associated Press report that the Congress leaders this Session only wanted to consider their attitude towards the White Paper on constitutional advancement?

Mr. Chairman (Sir Hari Singh Gour): Order, order. That is not the question that arises at the present moment. The only question that arises here is this. Mr. Jog and Pandit Satyendra Nath Sen have given notices of adjournment motions based upon information published by a Press agency. The Honourable the Home Member has informed the House that the information published by the Press agency is authentic and that disposes of the objection that would arise and that has been taken by Mr. Mitra. I have now to ask whether any Honourable Member has any objection to this motion. The Leader of the House.

The Honourable Sir Brojendra Mitter (Leader of the House): So far as Government are concerned, they have no objection.

Mr. S. O. Mitra: As I have said, any case for the adjournment of the House will arise in future on the reply that we will receive from the Honourable the Home Member. I think we should not take advantage of this answer for the adjournment of the House at this stage.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): On a point of order. When the Honourable the Home Member gave certain information, was it in reply to any short notice question or was it gratuitously forced on this House? No short notice question was allowed to be put. You did not call upon anybody to answer any short notice question. Yet the Honourable the Home Member went out of his way, for what reason we do not know. He is not so very alert or anxious to answer such questions ordinarily. Was he in order, Sir.

Mr. Chairman (Sir Hari Singh Gour): The Honourable the Home Member was perfectly within his rights in informing the House as to the authenticity of the information published by the Press agency and I think it is not only his right but his duty to take the earliest opportunity of informing this House as to what the true facts are.

As objection has been taken, I would request those Honourable Members who are in favour of leave being granted to rise in their places.

(After counting.)

As less than 25 Members have stood up, the Honourable Member has not got the leave of the House to move his motion.

I have received another motion from Pandit Satyendra Nath Sen that he proposes to ask for leave to make a motion for the adjournment of the business of the House today for the purpose of discussing a definite matter of urgent public importance, namely, the Government ban on the holding of the Congress at Calcutta. I have to inquire whether any Honourable Member has any objection to this motion.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhamadan Urban): This question has already been decided by the House. The previous motion has not been accepted by the House and it is an elementary principle that the same question cannot be raised again when the question has been disposed of by the previous motion.

Mr. Chairman (Sir Hari Singh Gour): The Honourable Member can object to this, if he wants to.

Diwan Bahadur A. Ramaswami Mudaliar: I am not objecting to it. I am raising a point of order. The stage of objection will come later. My point of order is that this motion has been blocked by the previous motion.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Can the Honourable Member go behind the ruling of the Chair?

Mr. Chairman (Sir Hari Singh Gour): Order, order. I have to inquire whether any Honourable Member has any objection to this motion.

Mr. S. C. Mitra: I take objection.

Mr. Chairman (Sir Hari Singh Gour): As objection has been taken, I would request those Honourable Members who are in favour of leave being granted to rise in their places.

(After counting.)

Order, order. As less than 25 Members have risen, I have to inform Pandit Satyendra Nath Sen that he has not the leave of the House to move the motion.

STATEMENTS LAID ON THE TABLE

Mr. H. A. F. Metcalfe (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred questions Nos. 1688 and 1689 asked by Mr. M. Maswood Ahmad on the 14th December, 1932.

MEMBERS OF THE DELHI ROYAL FAMILY IN INDIA.

*1688. (a), (c) and (d) I would refer the Honourable Member to my answer to his question No. 47 on the 1st February, 1933.

(b) Exact figures are not available but enquiries show that there are 333 members of the Delhi ex-Royal Family in receipt of pensions or allowances from Government in Delhi, United Provinces and Burma.

MEMORIAL OF ANJUMAN KHANDAN-I-JEHANDAR SHAH, BENARIS, TO THE GOVERNMENT OF INDIA.

*1689. I would refer the Honourable Member to my answer to his question No. 47 on the 1st February, 1933.

Sir Thomas Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to supplementary questions to starred question No. 642 asked on the 22nd September, 1932, and also the information promised in reply to starred question No. 252 asked on the 8th February, 1933.

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**REMOVAL OF HIS OFFICE BY THE SUPERINTENDENT OF POST OFFICES,
NILGIRIS, TO A BUILDING OWNED BY HIM.**

*642. After an investigation into the case the Government are satisfied that the rent charged for the building occupied as the office and residence of the Superintendent of Post Offices, Nilgiri Division, was not unreasonable.

DISCHARGED APPROVED CANDIDATES OF THE CALCUTTA GENERAL POST OFFICE.

*252. (a) Yes.

(b) 73. The periods of their candidature varied from about a year to 3½ years.

(c) 13.

(d) No, not from 1927 but from 1929. Vacancies in the Calcutta General Post Office were kept unfilled for the provision of departmental staff of the Treasury Department of the General Post Office, which it was then proposed to run under a contract.

(e) Yes. 23 surplus officials from each of the two offices named.

(f), (g) and (h). There is, no doubt, hardship as suggested; and this is why the provision of such candidates in alternate vacancies in the lower division clerical cadre has been ordered as a special case. In this connexion the Honourable Member is referred to the replies given to starred question No. 768 of Mr. P. G. Reddi on 26th September, 1932, and to part (a) of No. 1339 of Seth Haji Abdoola Haroon on 21st November, 1932.

Mr. P. B. Rau (Financial Commissioner, Railways): Sir I lay on the table:

(i) the information promised in reply to starred questions Nos. 956, 957 and 958 asked by Kunwar Hajee Ismail Ali Khan on the 8th November, 1932;

(ii) the information promised in reply to starred question No. 1490 asked by Mr. Gaya Prasad Singh on the 28th November, 1932; and

(iii) the information promised in reply to starred question No. 857 asked by Khan Bahadur Haji Wajihuddin on the 18th March, 1932.

CONSOLIDATED ALLOWANCES OF TICKET COLLECTORS ON THE EAST INDIAN RAILWAY.

*956. (a) This is due to the fact that at the time ticket collectors were not considered eligible for it.

(b) The reply is in the affirmative.

(c) The reply is in the affirmative. In this connection attention of the Honourable Member is invited to the reply given to part (a) of question No. 1122 asked by Sheikh Fazal Haq Piracha, M.L.A.

(d) The attention of the Honourable Member is invited to the reply given to item (c) above.

(e) Attention is invited to the position as explained in reply to part (a) of Sheikh Fazal Haq Piracha, M.L.A.'s question No. 1122 (a) already referred to. Only those who are eligible for the consolidated travelling allowance are also eligible for it while on stationary duties.

(f) Government do not consider that it is in the public interest to place a copy of the correspondence in question on the table.

(g) The question considered in the correspondence was only with regard to the eligibility for consolidated travelling allowance while on stationary duty. The Chief Accounts Officer's letter cannot be construed to mean that the allowance can be given when on stationary duties, to employees who were not eligible for it under the rules.

IGNORING THE CLAIMS OF OLD TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

*957. (a) The merits of such individuals were carefully considered and those most suitable were selected for the Travelling Ticket Examiners' posts.

(b) The reply given to the question referred to by the Honourable Member did not imply such acknowledgment.

(c) No such posts existed in the Accounts Department.

(d) Six.

DISCHARGE AND RE-APPOINTMENT OF SOME TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

*958. (a) The reply is in the affirmative.

(b) The abolition of the Crow System rendered a certain number of crew staff surplus and the four Travelling Ticket Inspectors referred to were discharged as least efficient. However, on reconsideration, owing to their past record, all the four Travelling Ticket Inspectors were permitted to continue in the service.

(c) Three of them are working as Travelling Ticket Examiners, Grade I, on the maximum of their grade while the fourth has since proceeded on voluntary retirement.

(d) While the general conditions of service are the same there are particular rules and conditions applicable to various sets of employees.

SALE OF MINERAL WATERS, AERATED WATERS, ICE, ETC., ON THE EAST INDIAN RAILWAY.

*1490. (a) The Agent, East Indian Railway, reports that the Carlsbad Company have held the contract for the sale of ice and aerated waters in running trains on the East Indian Railway since 1923. Applications were called for for this contract. The resources of all applicants were inspected and this Company, though its quotations were not necessarily the lowest, was selected as being the most up-to-date and best able to satisfactorily carry out the terms of the contract.

(b) Yes, owing to the fact that supplies were being obtained from uninspected sources. The reason why Messrs. Kellner & Company were not restricted is due to that firm having supplied mineral waters in refreshment rooms for many years and to their installation having been under medical inspection. The Agent reports that Messrs. Murray & Company and Messrs. Kapoor and Company have since provided their own installations, which have been inspected and approved by the Medical Department. Government do not doubt that there may be other firms whose charges are lower than those of the Carlsbad Company, but due regard must be had to the quality and hygienic production of supplies.

The Agent of the East Indian Railway reports that he is considering the feasibility of selecting and notifying certain approved manufacturers from whom supplies can in future be obtained.

(c) The Carlsbad Company is not an English or European concern. The question of permitting Indian refreshment rooms to purchase mineral water supplies from certain approved manufacturers is under the consideration of the Agent.

(d) Government are not aware that such an impression prevails, but if it does, they are satisfied that it is unfounded.

With reference to the supplementary question by Mr. Maswood Ahmad, the Agent reports that the East Indian Railway Administration does not receive any sum of money from the Carlsbad Company in consideration of the contract being given to them. The Company have only deposited a sum of Rs. 5,000 as security for due fulfilment of contract.

SUPPLY OF ICE AND MINERAL WATER ON THE EAST INDIAN RAILWAY.

*857. The Agent, East Indian Railway, reports that when applications for the ice and mineral water contract on the East Indian Railway were called for, the contract was not given to the applicant who quoted the lowest rate. The applications received, 29 in number, were carefully examined by the Administration, who decided not to change the previous contractor, after they had satisfied themselves that the applicants who had quoted lower rates than the successful one were not in a position to supply ice and mineral water of equally good quality, to the extent of the quantity required, manufactured in as hygienic a manner. This decision was taken with a view to ensuring that the standard of quality of the mineral waters then being sold throughout the Railway should not in any way be lowered. Government do not consider that any further action on their part is called for.

2. With regard to the question of reducing the price of ice and mineral waters on the East Indian Railway to the level of the rates obtaining on the North Western Railway, I would point out (1) that ice is sold at a flat rate of 0-2-0 a seer on the East Indian Railway whether on platforms or in refreshment rooms, whereas on the North Western Railway there are varying rates and the average price per seer works out to 0-2-9, and (2) as regards mineral waters, that the bottles on the East Indian Railway are of 12- and 14-ounce capacity (for sweet waters and soda respectively) against 10 and 12 ounces on the North Western Railway. It must however be admitted that the rates on the North Western Railway are generally lower than on the East Indian Railway and the attention of the Agent, East Indian Railway, is being drawn to this fact.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. Chairman (Sir Hari Singh Gour): Further consideration of the following motion moved by Sardar Sant Singh on the 9th February, 1933:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the Honourable Sir Harry Haig, Sir Hari Singh Gour, Mr. S. C. Mitra, Rao Bahadur B. L. Patil, Mr. Lalchand Navalrai, Mr. Abdul Matin Chaudhury, Mian Muhammad Shah Nawaz, Mr. B. R. Puri, Sir Abdur Rahim, Mr. Gaya Prasad Singh, Mr. D. G. Mitchell, Rao Bahadur S. R. Pandit and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): With your permission, Sir, I want to make a statement on behalf of Sardar Sant Singh, the author of this Bill. Sir, while he considers this Bill to be very important, and I also share with him in that view that this Bill is essentially necessary as it aims at removing certain defects in the Criminal Procedure Code, he has authorised me to make a statement that in view of the fact that he has already consented to preference being given to the Untouchability Bill, he would be very glad to give facilities for that purpose. I am, therefore, authorised by him to request the House, through you, to agree that the further discussion of this Bill be not taken up at this moment. I now request you to ask the House not to take this Bill into consideration for the present.

Mr. Chairman (Sir Hari Singh Gour): The Honourable Member is perfectly aware that after a motion for consideration or reference to a Select Committee is made, the matter passes out of the hands of the Chair or of the Mover of the Bill and that it is a matter entirely in the hands of the House. Consequently no Mover or his vicarious representative in this House can withdraw a Bill once it is under consideration by the House.

Mr. Lalchand Navalrai: Sir, among the Standing Orders there is one to the effect that the Mover of the Bill can ask the House for withdrawal at any moment.

Mr. Chairman (Sir Hari Singh Gour): Order, order. The Mover of the Bill has not asked for any leave to withdraw the Bill.

Mr. Lalchand Navalrai: My submission, Sir, is that while I am also conscious of the fact that the Standing Order says that it is the Mover who can apply for withdrawal, that rule can be waived by the Chair and that you may, Sir, be pleased to allow me on his behalf to move his motion.

Mr. Chairman (Sir Hari Singh Gour): Order, order. The Chair cannot read the Standing Order to mean Mr. Lalchand Navalrai for Sardar Sant Singh.

Mr. Lalchand Navalrai: In that case I would move that the question be now put.

Mr. N. M. Joshi (Nominated Non-Official): I want to make a motion, Sir:

"That the further consideration of Sardar Sant Singh's Bill be adjourned."

Mr. Chairman (Sir Hari Singh Gour): Motion moved that the consideration of the motion moved by Sardar Sant Singh which I have already read out be adjourned.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, nobody has got any right to move a motion like this in the absence of the Mover of the Bill which is in the seisin of this House and no Vakalatnama or power-of-attorney can give power to any Member of this Assembly to move on his behalf for the adjournment or otherwise of this Bill which, according to the Rules and Standing Orders, would then lapse,—and that is the usual course

An Honourable Member: And no one should oppose it in the absence of the Mover as well.

Mr. K. Ahmed: and, therefore, it will have a natural death. (Voices: "No, no.") Therefore, Sir, no amount of help or sympathy on the part of my Honourable friend, Mr. Joshi, or my Honourable friend from Karachi will be of any use. Under the circumstances, I would ask you, Sir, not to take any notice of this motion, because if you put this motion to the vote of this House, you will have to quote authority from the Rules or Standing Orders. How can a third person take up the matter and ask, on his behalf, that there should be an adjournment, which, as you have hitherto observed, Sir, has already gone out of the hands of the Mover. Of course, before the House decides by a majority of votes whether the Bill shall be referred to a Select Committee or not, another view can be accepted only by you giving an adjournment if you think it necessary if the Mover of this Bill was here on his legs and

only if he had asked that he wanted an adjournment. On the contrary, he is probably avoiding his own presence (Laughter), because he has got some other object in view . . .

Mr. Chairman (Sir Hari Singh Gour): Order, order, Mr. Joshi has moved that the further consideration of this motion do stand adjourned and it is within the right of any Honourable Member to make a motion of the kind that has been made and I hold that it is in order. I shall now hear if any Honourable Member has got anything to say on the question of adjournment.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, on a point of order. Before the Honourable Mr. Joshi moved his motion, there was a specific motion moved by the Honourable Mr. Lalchand Navalrai for putting the question for closure; and referring to Standing Order 32, which is reported on page 32 of the Manual, it is clear that it is the option of the President to accept the closure or not, but that, if he accepts the closure, then there is nothing left to him but to put that closure motion before the House. Sir, I would like to know whether you think it proper now to accept the motion for closure as put by Mr. Lalchand Navalrai. If you accept it, then of course there is no course open but to put it to the House.

Mr. Chairman (Sir Hari Singh Gour): The Honourable Member did not listen to what Mr. Lalchand Navalrai said. He said he was asking for the withdrawal of the motion.

Mr. Lalchand Navalrai: No, Sir. I shall explain myself. My first motion was really for withdrawal, and, when it was not allowed, I made the motion:

"That the question be now put."

Mr. C. C. Biswas (Calcutta: Non-Muhammadan Urban): On a point of order, Sir. When a motion is moved that the further consideration of the matter do stand adjourned, is it not obligatory on the Mover to specify the date to which the discussion should be adjourned?

Mr. Chairman (Sir Hari Singh Gour): Order, order. I shall now deal with the two points that have been raised. I understand Mr. Lalchand Navalrai moved the motion for closure. I think I am not in a position to accept that motion at this stage, because on a very important Bill of this character only six Honourable Members have spoken so far and no one on behalf of Government has spoken on the subject. I would not be justified, therefore, in accepting the closure at this stage.

As regards Mr. Joshi's motion that the debate do stand adjourned, that is a motion which this House will have to decide.

Mr. N. M. Joshi: With your permission, I would like to modify my motion, Sir. I now move:

"That the consideration be adjourned till the Simla Session of the Assembly."

Mr. Chairman (Sir Hari Singh Gour): Has any Honourable Member any observations to make upon the motion moved?

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): May I make a submission, Sir? This request has been made, because the original request made by Mr. Lalchand Navalrai that the Bill be withdrawn or that the question be put has been defeated and this is only a philanthropic motion in order to allow certain Bills to come outside their usual number and because certain Members have given an undertaking that it shall be done. I submit, it is not a *bona fide* motion. It has not been moved, because there is any difficulty in proceeding with this motion at all. The Honourable Mr. Joshi has not assigned any reason as to why all of a sudden this original motion of Sardar Sant Singh should be adjourned. The Government attitude has not yet been made known to the House and the Honourable the Leader of the House, who is also the Law Member, would, I hope, in time tell us what exactly the views and the attitude of the Government are. There is absolutely no reason why this motion, which, I again repeat, is not a *bona fide* motion, be put and thereby disturb the order of motions on the agenda paper for the benefit of certain Members whose only merit is that they shout the loudest. Therefore, I oppose this motion.

Mr. K. Ahmed: I was speaking at the time you interrupted me that there is an objection to the motion of Mr. Joshi for the adjournment of the debate, because the Mover of the Bill, who is in possession of the Bill as far as this House is concerned, is not present. In his absence there is no life in the Bill. My friend, Mr. Joshi, however, wants that notwithstanding the fact that the Mover of the Bill is not in the House and in spite of his writing to my friend, Mr. Lalchand Navalrai, that he does not like that there should be an adjournment of the debate—in fact, he wants that this Bill should be withdrawn—that further debate of this Bill be adjourned. On the face of it, it is rather an extraordinary attitude for my friend, the Labour leader, to adopt. I am afraid he is asking a frivolous thing from the House. There is no logic in it, nor has it the support of the Standing Orders. According to the rules, in the absence of the Mover of the Bill, no Member is authorised to make a motion of the kind that Mr. Joshi has made. How is it possible

Mr. Chairman (Sir Hari Singh Gour): Order, order: I have not yet been able to grasp what the Honourable Member is speaking about. Is he opposing the motion for adjournment or raising a point of order, or doing both?

Mr. K. Ahmed: I am doing both. I am entitled not only to oppose the motion for adjournment, but also to say that it does not lie with the Chair to allow such a frivolous motion to be moved.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Is this all relevant, Sir?

Mr. Chairman (Sir Hari Singh Gour): Order, order. I cannot permit the Honourable Member to combine in one speech the two points that he has raised—one a point of order and, secondly, a speech against or for the substantive motion for the adjournment of the debate. So far as I understand his point of order, namely, that the Chair has got no power to permit the adjournment of a debate, the Honourable Member must

remember that such power has been exercised and will be exercised by the Chair as absolutely essential for the progress of the business of the House. As to the substantive question whether the Chair should or should not allow the adjournment of the debate, the Chair would like to hear Honourable Members before putting it to the vote.

Mr. K. Ahmed: I am very much obliged to the Chair. But it is the Chair who asked me whether I was taking objection on both grounds. I relied on the first ground which you also think is a cogent one. I am, therefore, asking you now to allow the motion which has been moved by my friend, Mr. Joshi, because the Honourable Member from Karachi himself admits although he has not got the Vakalatnama from him . . .

Mr. Chairman (Sir Hari Singh Gour): Order, order: The Honourable Member is out of order. I have already decided that the motion is perfectly in order. Has any Honourable Member got anything to say on the motion for adjournment?

Mr. O. C. Biswas: I do not wish to mince matters. Mr. Lalchand Navalrai has very frankly stated that the object of the motion for adjournment of the debate is to give facility for the introduction of the Untouchability Bill.

Mr. N. M. Joshi: I have got my own Bill.

Mr. O. C. Biswas: For the very same reason, I say, Sir, the adjournment should not be granted. Even at the risk of unpopularity, I do not mind declaring on the floor of this House that the Untouchability Bill is a measure for which no special facilities should be granted. That is the view I hold, and hold it strongly, and on that ground I oppose this motion for adjournment.

Pandit Ram Krishna Jha (Darbhanga cum Saran: Non-Muhammadan): I also oppose this motion for adjournment. My firm conviction is that this motion is not a *bona fide* motion. It is merely tactics adopted by this side or that side of the House, and I oppose it on that ground.

U Kyaw Myint (Burma: Non-European): Sir, I am not a Hindu, and the question of untouchability or orthodoxy does not concern me personally. But when Honourable Members of this House accuse the Mover of the present motion of *malâ fides*, I must get up and enter a strong protest. You know, Sir, from your personal experience at the Bar, which is much greater than mine, that such a device is used when a case lower down in the list is given preference, in token of friendship, or when the matter is of public importance. The device is a legitimate device and Mr. Joshi, the Honourable the Mover of the present motion, cannot, therefore, be accused of any improper motive. On this ground I support his motion for the adjournment of the debate.

The Honourable Sir Brojendra Mitter (Leader of the House): I will explain the Government position with regard to this motion for adjournment. This Bill, as Mr. Lalchand Navalrai said, is an important Bill

from a certain point of view. It has been debated for more
12 Noon. than half a day and, from what Mr. Lalchand Navalrai said, it appears that the Mover himself is not serious about it and he wants to withdraw it. If that be so, why not go on with it, hear the Government

[Sir Brojendra Mitter.]

reply and give it a quietus instead of keeping it hanging, particularly when the Mover himself is not serious about the measure? But if it be the desire of the House that the further consideration of the Bill should be adjourned, we will not stand in the way. We shall remain neutral. At the same time it is very inconvenient that a matter which has been debated, on which several Members have spoken and on which the Government case has not been placed before the House should be kept hanging and not be finally disposed of.

Mr. Chairman (Sir Hari Singh Gour): The question is:

"That the further consideration of Sardar Sant Singh's motion on the Bill to amend the Code of Criminal Procedure, 1893, be adjourned till the next Simla Session."

The Assembly divided:

AYES—29.

Azhar Ali, Mr. Muhammad.
Bagla, Lala Rameshwar Prasad.
Chandi Mal Gola, Bhagat.
Dalal, Dr. R. D.
DeSouza, Dr. F. K.
Hoon, Mr. A.
Jadhav, Mr. B. V.
Jawahar Singh, Sardar Bahadur
Sardar.
Jehangir, Sir Cowasji.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Kyaw Myint, U.
Lalchand Navalrai, Mr.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Mitra, Mr. S. C.

Mudaliar, Diwan Bahadur A. Rama-
swami.
Murtuza Sahab Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Paroo Nand, Bhai.
Phookun, Mr. T. R.
Rajah, Rao Bahadur M. C.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Roy, Rai Bahadur Sukhraj.
Sarda, Diwan Bahadur Harbilas.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Wajihuddin, Khan Bahadur Haji.

NOES—23.

Abdoola Haroon, Seth Haji.
Ahmad Nawaz Khan, Major Nawab.
Ahmed, Mr. K.
Anklesaria, Mr. N. N.
Biswas, Mr. C. C.
Fazal Haq Piracha, Shaikh.
Ghuznavi, Mr. A. H.
Gidney, Lieut.-Colonel, Sir Henry.
Ibrahim Ali Khan, Lt. Nawab
Muhammad.
Ishwarsingji, Nawab Naharsingji.
Ismail Ali Khan, Kunwar Hajee.

Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur O.
Lahiri Chaudhury, Mr. D. K.
Misra, Mr. B. N.
Mukherjee, Rai Bahadur S. C.
Puri, Mr. Goswami M. R.
Raghubir Singh, Kunwar.
Rajah, Raja Sir Vasudeva.
Sen, Pandit Satyendra Nath.
Thampan, Mr. K. P.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.

The motion was adopted.

THE SPECIAL MARRIAGE (AMENDMENT) REPEALING BILL.

***Raja Bahadur G. Krishnamachariar** (Tanjore cum Trichinopoly: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill to repeal the Special Marriage (Amendment) Act, 1923, be taken into consideration."

*Speech not revised by the Honourable Member.

The Act of 1923 professed to amend the Special Marriage Act, 1872, by allowing Hindus, Buddhists, Sikhs and Jainas to intermarry. The preamble of the original Special Marriage Act ran thus:

"WHEREAS it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion, and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows:—"

By the amendment of 1923, after the words "whereas it is expedient to provide a form of marriage Jaina religion," the words "and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion" have been added in the preamble, and the result of the amendment is that persons who profess the Hindu, Buddhist, Sikh or Jaina religion may intermarry.

Sir, the amending legislation of 1923 has got a history which, with the leave of the House, I propose to go through very shortly, as I do not want to take unnecessarily the time of the House. The first thing, Sir, to which I would invite the attention of the House is the preamble:

"Whereas it is expedient to provide a form of marriage for persons who do not profess,"—and then it says—"for persons who profess".

That is a matter to which I shall come later. Now, what has happened is this. After the passing of the Special Marriage Act, 1872, there had been two attempts, one in 1910 or 1911 by the late Mr. B. N. Basu and another before the introduction of the Reforms, I believe in 1919-1920, by Mr. Patel. Mr. Patel's was a more moderate Bill, while Mr. Basu's was a Bill which introduced not only this particular amendment, but also another amendment, but it was all negatived by the House. On these two occasions Government stood firm to their credit. They said that it was impossible for them to give assistance to a piece of legislation which cut at the root and the foundation of the Hindu society among whom "marriage" and "religion" are only two names for one thing. Consequently, the Bill of 1910 was negatived and the Bill of 1920, after passing through the stage of the Select Committee, was dropped for two reasons, that the Reforms were then impending and also there was no time after the Report of the Select Committee was received to go through the further stages of the Bill.

Now, Sir, soon after the introduction of the Reforms, you, a distinguished Member of this House, took up the thread and a Bill was introduced in terms which would allow the intermarriage of Hindus, Buddhists, Jainas and Sikhs. That was on the 23rd March, 1921. It was stated in the Objects and Reasons of the Bill:

"Civil Marriage Law, without reference to race, religion or social distinction, exists in all European countries and it is open to any Indian to contract such marriages in Europe. There is no reason why he should not be at liberty to do so equally in his own country."

The rest is history of what has happened previously a short statement of which I have just placed before this Honourable House, and then the Objects and Reasons proceed:

"In view of the growing strength of sentiment in favour of nationalism and the judicial classification of Buddhists, Jainas and Sikhs and other descendants of the Hindu community, the revival of the liberal provisions of the Bill of 1868 seems necessary."

Those two short sentences contain statements which it shall be my duty to controvert and to place before the House that they are absolutely against facts.

[Raja Bahadur G. Krishnamachariar.]

Before, however, I proceed to that, I will just finish the history of this Bill. When this Bill came up for discussion before this House, there was very strong opposition. Eventually the motion to refer the Bill to Select Committee was negatived. Then they all dispersed and went up to Simla and, in Simla, the attendance was not so strong, and the surrounding cold atmosphere probably deprived them of a great deal of warmth which Members would otherwise have had in connection with an important subject like this. The result was, that taking advantage of the fact that the Simla Session was a separate Session, the same Bill was introduced and a reference to Select Committee was allowed by one vote. The voting was almost equal and there was a majority of only one vote in favour of the motion to refer the Bill to Select Committee and so it went before the Select Committee. Then, there was a lukewarm attendance in the Select Committee and it passed there anyhow and it came back before the House and then it was passed by the House. Then it was placed before the Council of State and that body considered the Bill, and eventually passed it on the 17th July, 1923. The position, therefore, is this: the lawfulness of intermarriage between Hindus, Buddhists, Jains and Sikhs has been upheld by the Legislature and it is the law today. It is that law that I am trying to get repealed with the assistance of this Honourable House for the reasons that I shall presently lay before it to the best of my ability.

With regard to this Bill it was stated that a civil marriage, without reference to race, religion or social distinction, exists in all European countries and it is open to any Indian to contract such marriages in Europe. The Statement of Objects and Reasons says, there is no reason why such a law should not exist in India. I had something to do with law making and although I cannot claim to any distinction in that sphere, I had some little knowledge of it, and I have never come across any Bill introduced in any Legislature where the only reason assigned for asking for legislation is "there is no reason why it should not be done." One would have expected that the reason why it should be done would be placed before the House—not that there is no reason why it should not be done; because the fundamental, the cardinal principle of every legislation is that there should be a demand for it, and this anticipatory legislation has been condemned by all jurists, as it leads to the creation of troubles which do not exist. Just, as for instance, my friend, Mr. Ranga Iyer, read from one of the proceedings of the League of Nations, that a provision, which is unnecessary and inserted in a Bill, creates imaginary ideas as to the existence of necessities of those provisions, and that is a bad thing to do. Consequently, the reason assigned, so far as the Mover of the Bill was concerned, could not have appealed to anybody and it did not appeal to the House in the first instance. Now, another reason assigned is "In view of the growing strength of sentiment in favour of nationalism". What has nationalism got to do with an intermarriage between Hindus, Buddhists, Sikhs and others I do not know. I have not been able to find out: and the numerous opinions that have been collected in this volume, clearly show that nationalism has got nothing to do with a Bill of this nature. In Europe, there has been both *jus connubium* and *jus convivium* for a very long time. That had not saved Europe from the bloodiest war ever known to history; and I believe six million people died in the course of that war. Consequently, nationalism or internationalism has not got any

thing to do with national jealousies or with fundamental differences between race and race and sect and sect. The position with reference to the Act, as it has been enacted, is this. Admittedly Buddhists are dissenters from the Hindu religion. Their most important tenet is that they have rejected caste: they have rejected idol worship and, as every body is aware, the caste distinction, the *Varnashrama Dharma*, is the foundation stone of the Hindu religion . . .

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadian Rural): It is the stone round your neck and it is dragging you down.

Raja Bahadur G. Krishnamachariar: Those who are of that opinion need not trouble to be in the Hindu fold. The world is very wide outside the Hindu fold; they are quite free to go and quite free to say that they are not Hindus. But what I object and what I very strongly object to on the floor of this House is that a man calls himself a Hindu and yet would not be bound by the conditions which the Hindu religion rightly or wrongly fixed upon a man; that is the position that I am objecting to. Whether you like or whether you do not like the caste system, *Varnashrama* is the corner stone and the foundation of Hinduism. If you do not like it, I cannot compel you to like it; but do not call yourself a Hindu, because it is the standard and criterion upon which a man's position and status as a Hindu is dependent.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): The Honourable Member is wrong in identifying the caste system with the *Varnashrama Dharma*. *Varnashrama* is certainly part of Hinduism and I accept it, though I do not accept the caste system.

Raja Bahadur G. Krishnamachariar: Thanks for small mercies and for that interruption which, I would respectfully submit is very irrelevant and out of place; caste is, I believe, a term applied by the Portuguese which we Hindus do not understand; all that we do know is *Varnashrama*, and I only used the word caste, because that is the only English word by which this *Varnashrama* is described, so that it may be known to the English speaking people. I object to the word caste if it is applied to *Varnashrama*, and I say that *Varnashrama* is not caste; caste is something quite different, and the Portuguese were the first European immigrants in this place when they found the distinction of the different classes of the community and they thought it was something like what they themselves were acquainted with in their own country and they called it caste. If my friend, Diwan Bahadur Sarda, objects to the word caste, I am one with him; but as to his recognising the *Varnashrama*, I hope he will prove it by going with me into the same lobby as myself and agree that this Act which strikes at the root of *Varnashrama*, which says that *Varnashrama* is no good at all, which has driven a wedge into Hinduism,—this Act has no business to be on the Statute-book. If he does that, then I can understand the *bonâ fides* of that statement.

I was on the point that this Bill is a gross interference with the religious ideas of the Hindus. I would only quote a few sentences from the opinion of Dr. Ganga Nath Jha, the distinguished Vice-Chancellor of

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the Allahabad University who recently retired. That he is a great scholar, is admitted by all people. He said :

" In this country it would not be advisable to bring in the aid of the Legislature in matters that are religious or semi-religious, as all social matters are religious in India. Before attempting to force legislation on an unwilling people, social reformers will be well advised to educate the people, and, if social legislation is not backed by popular opinion, it is likely to defeat its own purpose. Thus it would seem that, however, desirable the proposed legislation may be on political grounds, it is highly inopportune at the present moment. "

Now, so far as the civil marriage question is concerned, in England the institution of civil marriage is only of recent date. It was in existence three or four centuries ago, but it had ceased to exist subsequently, and it was reintroduced recently, and, therefore, the analogy between England and India in this respect does not hold good. If Honourable Members will care to read Sir Henry Maine's book, they will observe that he has clearly shown that in England the question of marriage is treated in this manner, *viz.*, that there is only one true religion, and if a marriage does not take place in accordance with that religion, it is not supposed to have any efficacy whatsoever, and, therefore, they prohibited any marriage which was not performed according to Christian rites, and as that created certain difficulties and inconveniences, a civil marriage law was enacted. But that is not the case here. Besides, if Honourable Members understand the history of legislation when the Special Marriage Bill was introduced at the time of Sir Henry Maine, I think they will vote for this measure. As pointed out by the Law Member, when another Bill allowing inter-marriages between Hindus and Muhammadans was being discussed, the object of this Special Marriage Act was to relieve the small community of Brahma Samajists from the inconvenience or from the awkward position in which they were placed by the opinion of the Advocate General that they had no legal form of marriage and that, therefore, their issue was illegitimate. That was the position which faced Sir Henry Maine, and he, the distinguished lawyer that he was, having framed the Bill to that effect, found that although the Act was passed and although the Indian Legislature provided for inheritance, for some reason or other they omitted to provide that without a marriage law there could be no inheritance at all. He was not here when the Bill was discussed in its later stages. Sir James FitzJames Stephens, his successor, took it up, and I heartily commend his speech in full to the attention of the Honourable Members of this House in order to find out exactly the reason why they did not go the whole hog.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): What is that speech? Let us hear it.

Raja Bahadur G. Krishnamachariar: Before I turn to his speech, there is one point which I think will interest this House to know, and that is the principle upon which Sir James proceeded and the principle which was then upheld by the Government of India in a legislation of this sort. What Sir Henry Maine did,—and in that he made a serious mistake,—was that he thought there was no such thing as a fundamental law in India and that the reason why Hindus were enjoined to be governed by the Hindu law and Muhammadans were enjoined to be governed by the Muhammadan law in all cases before Courts was that

certain statutory declarations were made to that effect, and consequently he thought that the Hindu law was made the criterion of decision between Hindus, not because that it was such a thing that the Hindu law was binding upon the Hindus, but because certain statutory enactments made it obligatory to do so. Now, Sir, after contesting that position and, after pointing out that in order to administer the whole body of Hindu laws existing at the time, pandits were regularly appointed to help the judges, this is what Sir James says:

“Sir Henry Maine did not take that course”,—

that is to say, he might have told the Brahmos, we cannot help it, if you have no law, you must suffer,—that is one view that Sir James says he might have taken, but he did not take that course. He said:

“On the contrary Sir Henry Maine did not take that course, and I rejoice that he did not, though I cannot attach so much weight as he appears to have. He thought that a clear injustice, and especially a clear injustice clearly traceable to the influence of English habits of thought could not and must not be permitted where the persons affected are few.”

Now, the expression “English habits of thought” is rather important, and I would very respectfully ask this House to remember it in the course of this discussion:

“I cannot say how strongly I join in this opinion. I think that one distinct act of wilful injustice, one clear instance of unfaithfulness to the principles on which our Government of India depends, one positive proof that we either cannot or will not do justice or what we regard as such, to all classes, races, creeds or no-creeds to be found in British India, would in the long run shake our power more deeply than even military or financial disaster. I believe that the real foundation on which the British power in this country stands is neither military force alone, as some persons cynically assert (though certainly military force is one indispensable condition of our power), nor even that affectionate sympathy of the native populations on which, according to a more amiable, though not, I think, a truer, view of the matter, some think our rule ought to rest, though it is hardly possible to overrate the value of such sympathy where it can by any means be obtained, I believe that the real foundation of power will be found to be an inflexible adherence to broad principles of justice, common to all persons in all countries and all ages, and enforced with unflinching firmness in favour of, or against, every one who claims their benefit, or who presumes to violate them, no matter who he may be. To govern impartially upon those broad principles is to govern justly; and I believe not only that justice itself, but that the honest attempt and desire to be just, is understood and acknowledged in every part of the world alike.”

Then, Sir, after pointing out the necessity of enacting a restricted law, not an enlarged civil marriage law for the entire community, he points out the difficulties which faced the Legislature at that time and, after enumerating them (I shall not trouble the House by reading them), he says:

“Under these circumstances, Sir Henry Maine proposed to make the Brahmo question the opportunity for passing a measure of the most comprehensive nature. He proposed to pass an Act ‘to legalize marriage between certain Natives of India not professing the Christian religion, and objecting to be married in accordance with the rites of the Hindu, Muhammeden, Buddhist, Parsi or Jewish religion.’”

Then comes the Local Governments’ opinion. This is the ground upon which they eventually rejected the Bill. He continued:

“We thought that the Bill, as drawn by Sir Henry Maine, would involve interference with native law which we did not consider justifiable under all the circumstances of the case and it appears to me that the Hindu law and religion on the subject of marriage (I need not at present refer to the Muhammeden law) are one and the same thing, that they must be adopted as a whole or renounced as a whole, that if a man objects to the Hindu law of marriage, he objects to an essential part of the Hindu religion, ceases to be a Hindu and must be dealt with according to the law which relates to persons in such a position.”

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Sir, in a later passage, I have not been able to lay hands on at present, it is said :

"If you are a Hindu, you had better act as the Hindu does, or if you are not a Hindu, act accordingly, but do not ask us to pass laws for your sake enabling you to be a Hindu and at another time enabling you not to be a Hindu."

After making that observation, he proceeds to discuss the various principles and has eventually amended certain sections which was passed into law.

Now, with regard to this question of civil law, and the civil marriage law which was given out as the reason for introducing the Bill which eventually became the Act of 1923, on the last occasion when the second Bill was under discussion, the Honourable the Law Member, in a very elaborate speech, pointed out that there could be no such thing as a civil law in India for this reason that a civil law requires a compulsory monogamous marriage and with no loophole for polygamous marriage in that country. Now, it has been pointed out that in this Act the Hindu or Muhammadan marriages are not compulsorily monogamous marriages. Consequently, as was observed by the Honourable the Law Member, when you ask for international recognition upon the ground that you have got a civil marriage law in India, they will turn round and say: "This is no good. Your claim cannot stand, because you still have in your laws provision made for polygamous marriages and, therefore, your request for an international status based upon the existence of a civil marriage law cannot be complied with". That, Sir, is an unanswerable position and the learned Mover of the Bill, in his reply, did not tackle the point nor did he attempt to give any reply and, therefore, the first and the most important ground, upon which that law was enacted, namely, the necessity to give a civil marriage law for British India, falls to the ground. This is what he says:

"In order to secure international recognition it is necessary that it should be a compulsory measure so as to show that in India there is a compulsory law ensuring monogamy and, therefore, deserving of international recognition. That not being in existence, that not being enforceable, a civil marriage law is entirely out of the question and consequently the necessity for legislation based upon that view completely falls to the ground." (Interruptions.)

I do not want to be interrupted in that way. If somebody wants to interrupt me seriously, let him honestly stand up and say what he has got to say.

Sir, it is a question of purely social legislation and here there are certain principles upon which social legislation ought to be based. The first and the most important thing is that the community affected by it demands it. Where is there any proof that the Hindu community was particularly anxious that it should go out of its way to contract marriages with Buddhists, Jains and Sikhs? Sir, I noted on the last occasion that one or two Sikhs did support this measure, but I am perfectly sure that if they went to the Sikh community and took a referendum, they would certainly have objected to a measure of this nature. Sir, as I said, there has been no demand; and even the Statement of Objects and Reasons, as I pointed out, did not say that there existed any very large demand or that the Hindu community felt the necessity for it, because, all that it says, is that a certain state of things exists in Europe, and that

is no reason why it should not exist here. That sort of argument is a very dangerous argument; we should all remember the argument about the fur coat in Canada enunciated years ago by that distinguished statesman, Lord Morley. Then another matter to which I would invite attention is that it is now nearly ten years since this legislation was passed and I ask, how many persons have taken advantage of it? Is there any record that there has been such a scramble for marriages between Hindus, Buddhists and Jains that one fell over the neck of the other and marriages of that nature were contracted in large numbers? That is not so.

Mr. B. V. Jadhav: But there have been such marriages in small numbers.

Raja Bahadur G. Krishnamachariar: I deny that there have been any marriages in any appreciable numbers at all. Sir, it is incumbent upon those who assert that there have been even half a dozen marriages within the last ten years to bring out facts and figures and to prove that assertion, and I hope my friend, Mr. Jadhav, who seems to be particularly troubled over this *Varnashrama Dharma* and the Hindu religion as interpreted by us, would, with his usual industry and ingenuity, hunt out instances where this Act has been really applied, after its amendment, in appreciable numbers.

Now, there is one point in this connection to which I would invite the attention of the House. In connection with a later Bill, introduced by the same Mover, which, as I said, was negatived by this House and in which the idea of Hindus and Muhammadans intermarrying was altered, it was stated that the Act of 1923 had conferred untold blessings upon the Hindu community and that the Mover was very anxious that these benefits should be shared by other communities, especially the largest of such other communities, namely, the Muhammadan community. The answer that this House gave to that very benevolent intention was that it summarily rejected the Bill in spite of the plaintive request made by the Mover that he might be allowed to withdraw the Bill. Sir, in connection with this also there is a little incident which it might be of some interest to relate. When the original Bill which became the Act of 1923, was first introduced, it included Muhammadans. Then the Mover got afraid; he then thought that his wind would be up if he included the Muhammadans, so they were excluded that time and only the Hindu community was included; and, Sir, this speechless Hindu, the Hindu who does not understand what is going on in this Legislature in his name for bettering his condition socially, politically and internationally was sought to be tackled and then the larger Act was passed as the Act XXX of 1923. Now, as I said, the learned Mover claimed that the Act of 1923 conferred immense benefits upon the Hindu community and that, therefore, he was particularly anxious to extend the Act to the Muhammadan community.

Now, if you will kindly refer to the Special Marriage Act, as amended by the Act of 1923, there are certain important features which I think this House ought to know. (Mr. C. S. Ranga Iyer laughed.) That is Mr. Ranga Iyer. It does not matter; he is excluded for whatever he says! Well, Sir, the fact of the matter is that a Hindu, a person professing the Hindu religion, who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to

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any property,—provided that notwithstanding anything in this section, succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act and to the property of the issue of such marriage shall be regulated by the provisions of the Indian Succession Act. Sir, that Act applies to Christians and to persons who do not profess the Hindu religion so that the first great benefit which the Act of 1928 conferred upon the Hindu is that he is removed from the pale of Hinduism notwithstanding the permission given to him to marry a Buddhist or a Jaina or a Sikh; notwithstanding this provision, the Act states that succession shall be regulated by the Indian Succession Act; that is to say, he is thrown out of the pale of Hinduism.

Then, another very important right that has been taken away by this Act is that any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have no right of adoption. After that, Sir, where does the Hindu stand? Your succession is governed by a Christian law and the most important provision in the Hindu law, which helps a Hindu, in his conception of the Hindu religion, both in this life and hereafter, namely, the necessity to have a son either born to him or by adoption, has been taken away! Now, the reason why I expatiate upon this point is this. Originally the Bill, as it stood, required that a person who wanted to marry under the provisions of the Act had to declare that he was neither a Hindu, nor a Muhammadan, nor a Buddhist and so on and so forth. It was stated in the Statement of Objects and Reasons that there might be such men who did not want to come out of the pale of Hinduism who wanted to remain within the ambit of Hinduism, but yet who might want to contract such marriages, and it was eloquently asked, “how can you prevent such men from having this bare justice to take unto themselves wives of their own liking and whom they loved?”

1 P.M. That is the question that was put. Now, look at the result. The man takes unto himself a wife whom he likes. He marries her; the Act allows him to do so; it makes the children legitimate; everybody is quite happy; the wedding feast is over and I do not know if they also cut the cake as they do among the Christians. It is all over and forgotten. The man dies, and now comes the question of inheritance. Does the Hindu law apply? No: it is the Christian law which applies. Where, then, is the vestige of Hinduism? Is that the sign of Hinduism? Is that the Hinduism within which you wanted to remain? And in order to enable you to remain within it, you came before this Legislature and asked that an invidious or a false statement be prevented from being made by the persons who contract this marriage because, forsooth, they wanted to be within the Hindu fold. Now, the Act says that you are not a Hindu so far as succession is concerned: you are not a Hindu so far as adoption is concerned. Of course, caste distinction is cast to the wind. And to crown it all, when a person professing the Hindu, Buddhist, etc., religion, marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject. It really comes to this that so far as this man, who marries under this Act, is concerned, he is civilly dead, because, as the House knows, no adoption is valid by a man who has got a son alive and if the Legislature allows this man to adopt, in the face of the fact that

this man is alive, it really means that he is to all intents and purposes civilly dead. Sir, I said just now that it drives a wedge into the peaceful existence of the Hindu family, and in this connection I would quote a section which runs thus :

"The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family."

Now, the joint family is an institution which has helped to keep intact the Hindu society all these years. We have been benefited by it in untold ways although I admit that there are certain disadvantages created by the modern individualistic turn of mind, but that is only a modern condition. But during all these ages the joint family system has conduced to the benefit, the welfare and the improvement of the Hindu society. Now, directly this marriage takes place, the man severs himself from the joint family. Therefore, what is the result? An Act was passed in order to enable the man to remain within the Hindu fold and every important fundamental condition connected with the Hindu law has been denied to him. Where, then, was the necessity, where was the justification, for an Act of this nature? From the inquiries that I have been able to make, I can say without any fear of contradiction that very few persons, if at all, have taken advantage of this law. Therefore, I ask why should this little law deface the Indian Statute-book? It was not wanted by anybody and it creates havoc in the Hindu society. It drives a wedge into it. Why should such a law be allowed to remain on the Indian Statute-book? I, therefore, ask that by means of my Bill this Act may be repealed.

Sir, there is one matter in connection with the history of this Bill which, I think, ought also to be placed before this House. How much this House liked the passing of this Bill is clear from the fact that, after the passing of this Act, it was found by the learned Mover that there was some conflict between the Indian Majority Act and this Act which he had taken the trouble to pilot through this Legislature. Therefore, he introduced a Bill in order to bring it into line with the Indian Majority Act. This House promptly rejected it.

Sir Muhammad Yakub: Who was the Honourable the Mover?

Raja Bahadur G. Krishnamachariar: The Honourable the Mover is the Chairman himself. The result was that this anomaly of conflict between the Indian Majority Act and this Act still subsists without being remedied.

Sir, that is about all that I have got to submit for the consideration of this House and I respectfully submit that the motion, that I have the honour to make, namely, that this Bill be taken into consideration, be dealt with on its merits. However glaring my shortcomings may be and however lacking in eloquence I may be, my facts are right. My position is perfectly right. I stand not for any rhetorical success, but for a solid and substantial position that the Hindu religion shall not be interfered with by the help of this Legislature, and where it has already been interfered with, this Legislature should help me to get rid of it and to restore the *status quo ante* and thereby ensure the position of the community to which I have the honour to belong.

Mr. Chairman (Sir Hari Singh Gour): Motion moved:

"That the Bill to repeal the Special Marriage (Amendment) Act, 1923, be taken into consideration."

Mr. Badri Lal Rastogi (Patna cum Shahabad: Non-Muhammadan): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933."

The Special Marriage Amendment Act, 1923, which is sought to be repealed is an enabling Act only and not compulsory. It is meant to protect the minority; in other words, the Act is intended for those who have renounced their religion or who do not believe in their religious faiths and want that their freedom in the matter of marriages may not be fettered. Sir, it is very difficult to stop marriages between one community and another, as hundreds of these marriages are being celebrated every now and then. In my opinion, Sir, there should be no obstacle to a person in the matter of his or her choice in selecting a life companion; rather, there should be complete freedom in such matters. As it is a matter affecting the enlightened community only, I propose that the Bill be circulated for opinion which may be called by the 31st July, 1933.

Rai Bahadur Lala Brij Kishore (Lucknow Division: Non-Muhammadan Rural). Sir, I rise to support the amendment moved by my Honourable friend, Mr. Rastogi. I have carefully studied the Statement of Objects and Reasons appended to the Bill by Raja Bahadur Krishnamachariar and I admit that I am not fully convinced as to why the Special Marriage Act of 1923 should be repealed straightaway.

Sir, the Act in question is only an optional measure and does not compel anybody belonging to any of the Hindu religious sections mentioned in the Act to solemnise their marriage under this Act. As far as I am aware, very few people have availed themselves of this Act, and that being so, the measure is more or less a dead letter for the bulk of the communities mentioned in the Act. If that be so, why should we put obstacles in the way of those few people who have availed themselves of the Act in solemnising their marriages retaining their faith in their original religion? But, if, on the contrary, the Raja Bahadur can prove that a vast majority of the Hindus are availing themselves of this Act and that thus it is proved that the Sanatan Hindu Dharma is being endangered, I would support the Raja Bahadur's motion for passing the Bill; but, if he fails to do that, I cannot understand how he can expect the support of any reasonable Member of this House to support it, simply because a small section of the Sanatanists want the repeal of the Act in defiance of a large majority of the Hindu community. Does not the Raja Bahadur himself say that a measure like the present must satisfy the essential condition that "there must be very strong and conclusive evidence that the change is demanded by the people who are affected"?

Sir, further, the last paragraph of the Statement of Objects and Reasons appended to the Bill by Raja Bahadur Krishnamachariar goes only to prove that the Act of 1923 is defective in so far as the persons availing themselves of this measure, though not compelled to renounce

their faith in Hinduism, are compelled to be governed by the Indian Succession Act and not by the Hindu Law of Succession though the original Act of 1872 allowed them the privilege of the Hindu Law of Succession. That being the case, Sir, I support the motion of my friend, Mr. Rastogi, for the circulation of the Bill for eliciting public opinion and I would request the House to support the motion.

Before I conclude, I say that if the bulk of the opinions received are in favour of repealing the Act, I would be the first person to support the passing of the repealing Act proposed by my friend, Raja Bahadur Krishnamachariar.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Chairman (Sir Hari Singh Gour) in the Chair.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammudan): Mr. Chairman. I oppose both the motions,—for taking the Bill into consideration, as well as for circulation. When this Bill was passed ten years ago it was done after much discussion throughout the country, and when my friend, the Mover of the present motion, said that there was a strong feeling amongst the Hindu community for its repeal, I hoped that he would place some evidence before this House, before he asked us to support his motion for consideration that there was any feeling in the Hindu community for the repeal of this Act. He does not even give any reasons. What will happen, if this Act is now repealed, of the marriages that were contracted during this intervening period of ten years? He is a great supporter of the *Varnashrama Dharma*, but the Shastras say of only four Varnas and four Ashramas. How does he support the existence of so many castes as it now obtains amongst the Hindus? I think there is some fundamental misapprehension about the high ideal of *Varnashrama Dharma* that has been advocated by our Shastras. Men like the Mover of this Bill merely care for the letter of those slokas from the Shastras and cannot appreciate their true spirit. If he had been a supporter of the *Varnashrama Dharma*, why he is supporting the theory of so many castes and inter-castes that have now prevailed amongst the Hindus for a long time? On all these grounds, Sir, I think there is no reason why the decision of the House that was arrived at after much discussion should be revised. I think it will be really wasting the time of the House if we go on with this matter, and the House should straightaway come to the decision that such a motion should not be accepted. Sir, with your permission, I would like to move that the question be now put on both the circulation motion as well as the motion for consideration. Sir, I move that the question be now put. (*Voices*: "No, no.")

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammudan): Sir, I agree with the last speaker that there was no necessity for bringing in this Bill to repeal the amendment of Act III of 1872. I have carefully gone

[Mr. Amar Nath Dutt.]

through all the sections which you, Sir, sponsored and got them embodied in the Statute-book. I do not find anything of a compulsory nature in those sections. On the other hand, I think, as it has been said by you, Sir, when moving that Bill, that it gave free scope to the conscience of an individual which the Act of 1872 did not. If we go back to the history of that enactment, Act III of 1872, which is generally known as the Brahmo Marriage Act, although it was not so, we find that it was a civil marriage Act, and there was necessity for a legislation like that at that time, because, Sir, with the onrush of Western civilization and culture into our country, there rose a body of men who were losing faith in their ancient religion and culture and were adopting Western methods of life. In the beginning of the nineteenth century, Raja Ram Mohan Roy stood up against idol worship and preached monotheism which is the creed of the Brahmos, who found themselves in difficulty about the legality or otherwise of marriages among them, which were not performed according to the idolatrous rites of an ordinary Hindu marriage. There was some opposition from orthodox quarters against legalising marriages not performed according to orthodox custom, but that opposition soon died out as it was found that there was no element of compulsion in the law and was merely permissive in its nature.

I never stand for legislation in social or religious matters. I make it clear that I am opposed to any interference by the legislative bodies in our social or religious matter. (Hear, hear.) But, at the same time, things which do not really interfere with our social or religious customs and which allow ample freedom to every one, with them we have no quarrel and I do support permissive legislation. Sir, I am very sorry that I have to oppose my friend, Raja Bahadur Krishnamachariar, for whom I have nothing but respect and reverence for his wisdom and knowledge of Hindu scriptures. (A Voice: "So have I.") Another Honourable gentleman claims the same reverence for him, but I do not yield to him in this respect. I am very careful in not acting in a manner as will be interpreted by any section of the community either orthodox or heterodox that I am for interference in any social or religious matter. But, Sir, although my whole life has been a challenge to orthodoxy, I have been at all times supporting my orthodox friends when I find that they have a just grievance against the onslaughts of the so-called reformers and, that being so, Sir, I believe that this is not one of those laws which need be repealed as my friend, the Mover of this repealing Bill, wants. After all, what did you do about the amendment of Act III of 1872? Section 2 of the Act, as it then stood, before your amendment, was to this effect:

"Marriages may be celebrated under this Act between persons neither of whom professes the Christian, or the Jewish or the Hindu or the Muhammeden or the Parsee or the Buddhist or the Sikh or the Jaina religion upon the following conditions."

And then follow the conditions. So, that Act was intended for those who thought they were outside the pale of these recognised religions, and the Brahmos at that time thought that they did not belong to any of these religions. But, latterly, some Brahmos began to think that they were only a particular sect of the Hindu society and that they were Hindus, and that in fact the Privy Council held that their succession will be governed by the Hindu Law. That being so, many conscientious Brahmos

found it difficult to subscribe to the statement "I do not profess the Christian, Jewish, Hindu, Muhammadan, Parsee, Buddhist, Sikh or Jaina religion". That declaration had to be made according to the provisions of Act III of 1872. Every one in this House who has any acquaintance with the puritan character and the high moral character of the Brahmos knows that certainly they will not subscribe to a declaration which appeared to them to be untrue. As for those gentlemen in the south who do not know how truthful the Brahmos are, I may cite one instance. A Professor of a certain Calcutta college, a very well-known Professor, was passing one day through the Cornwallis Street which leads to the Star Theatre. In order to tease him, some students passing by asked him "Where is the Star Theatre?" He somehow got annoyed and said "I do not know." The words came from him on the spur of the moment; but after he went a few paces, he at once realised that he had told a lie and he immediately came back and called those students and told them: "I know where the Star Theatre is, but I will not tell." So, men, with such scrupulous regard for truth, found it very difficult to subscribe to a declaration like the one which was to be found in the Act of 1872. It was very kind of you, Sir, although coming from a distant place like the Central Provinces, where there are very few Brahmos, to see the necessity of this legislation and the amendment. Raja Bahadur Krishnamachariar does not want the repeal of the whole Act: I could have understood his orthodox zeal; I could have understood his unshakable faith in the laws of our fore-fathers if he had opposed any law like Act III of 1872. I regret very much I have to say these things, but I have no other alternative but to do so. He wants to have the Act of 1872 retained on the Statute-book; only he wants to omit the portion which you, Sir, in the height of your wisdom, got enacted; and not only that; but you yielded to every sort of orthodox pressure that was brought to bear upon the Select Committee and the result was the enactment of sections 22 to 26 of which you were the sponsor. In order to show to my friend how the Honourable the sponsor of that Bill yielded to orthodox desire, and even, I may say, to orthodox prejudice, I shall quote section 22 which says:

"The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family."

So that orthodox Hindus may not be polluted by the presence of a man who marries, not according to Hindu rites, but according to the declaration and provisions of this Act. At once he is chucked out from his family and from his home. I believe that that is a sufficient check

An Honourable Member: Conspiracy.

Mr. Amar Nath Dutt: There was sufficient conspiracy no doubt as my Honourable friend observes when they enacted this: that was to keep hold upon a man and keep him in the orthodox field by various ways. Now, there are very few who will like to be driven out of the family and all that joint Hindu family life implies. But, I submit, he is not satisfied even with this safeguard. My friend, Mr. Mitra, asks me to have mercy on

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him: I do not understand, how I am cruel to him. I am also opposing the repeal like him. We are on the same side and I do not know why he is so impatient

Raja Bahadur G. Krishnamachariar: Mercy on me, an old man!

Mr. Amar Nath Dutt: With due deference, you will permit me to observe that I still have the highest respect and reverence for the Raja Bahadur and, if I have said anything for which he might have been offended, I most humbly beg to apologise

Raja Bahadur G. Krishnamachariar: You have not offended me at all.

Mr. Amar Nath Dutt: That being so, I only humbly protested that the Raja Bahadur will, if he peruses section 22, find that ample safeguard has been provided against people going away from the orthodox Hindu fold. Then section 23—that is also your amendment, Sir,—is an amendment which I do not thoroughly agree with, but, at the same time, it ought to give some relief to the Raja Bahadur when he finds that even the laws of inheritance by which the Hindus are governed will not be the law of inheritance for those who marry under the amending Act.

The provisions run as follows:

“A person, professing the Hindu, Buddhist, Sikh or Jaina religion, who marries under this Act, shall have the same right and be subject to the same disabilities in regard to any right of succession to any property”

—do you mean to say that I shall not discuss the amendment which is attempted to be repealed by a legislation like this?—

“in regard to any right of succession to any property as a person to whom the cast Disabilities Removal Act of 1850 applies, provided that”

—to this proviso I would draw the special attention of my friend, the Raja Bahadur—

“Provided that nothing in this section shall confer on any persons any rights to any religious office or service.”

—he is at once chucked out from Hindu society, and so my friend cannot have any grievance against him—

“or to the management of any religious or charitable trust.”

What more does my friend want, I fail to understand. It is one of the most salutary provisions, in fact if this had been sponsored by any other man but you, Sir, he would not have shown the same consideration for Hindu feeling as you have shown.

(Interruption.)

Don't disturb me like that. I don't think it is right and proper that you should carry on a discussion in the way in which you are doing when we are discussing a very important subject.

Pandit Ram Krishna Jha (Darbhanga cum Saran: Non-Muhammadan): Don't mind the Muzaffarpur Harijan.

Mr. Amar Nath Dutt: Now, Sir, I will refer to section 24 which is far more important than anything else. In fact, even if I had been the sponsor of the amending Bill, I would not have introduced such a disability provision in the Act, but, Sir, you, in your goodness and wisdom, which we have often found you to show even to your opponent, have been good enough to show consideration to the orthodox Hindu feeling, and I think my friend, the Raja Bahadur, the sponsor of this Bill, ought to be grateful to Sir Hari Singh Gour for introducing such a section like this:

"The property of any person, professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act, and the property of issue of such marriage shall be regulated by the provisions of the Indian Succession Act, 1865."

It at once does away with the Mitakshara or Dayabhaga law of succession and gives him another law of succession and to his children. That means that he is completely severed from the orthodox Hindu fold. Only he is allowed to keep the Hindu name. Such people are severed from their family as provided in section 22. They are debarred from enjoying any religious office or of having any religious service or to have anything to do with the management of any religious or charitable trust, and then, again, the law of succession is changed for them. That being so, why deny them the little consolation of their conscience, especially to over scrupulous truthful men like the Professor about whom I just mentioned an incident,—allow them to believe that they are Hindus.

Then, again, for the father or a man who has only one son and whose only son (section 25) marries under the provisions of this Act and is severed from the family, there is also this provision which my friend, the Raja Bahadur, and every orthodox Member of this House will appreciate, namely, the fear of *Pindalopa*,—that is to say, *pinda* is not allowed to be destroyed,—because in the case of a son going out of the family, the provision is this. The father is allowed to adopt a son and thereby get the *pinda* which he wants to have in the next world. I shall read to the House the provisions of this section:

"No person, professing the Hindu, Buddhist, Sikh or Jaina religion, who marries under this Act, shall have any right of adoption and when a person, professing the Hindu, Buddhist, or Jaina religion, marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as his son under the law to which he is subject."

The man, who marries under this Act, goes out of the society and will have no right of adoption, while his father will have the right of adoption. These are sections 25 and 26 to which I would respectfully invite the attention of my friend, the Raja Bahadur. If a careful analysis is made of these few sections which have been added to the Act, *viz.*, sections 22 to 26, I think no orthodox Hindu can have any quarrel. That being so, Sir, I think you were perfectly within your rights when you amended this Act. Sir, the history of this amendment you very lucidly gave in this House, and I shall read only a few lines which will at once convince the House that you have done the wisest thing . . .

Sir Muhammad Yakub: I want the full history, a few lines won't do.

Mr. Amar Nath Dutt: This is what you said, Sir:

"But as I have said on the last occasion when I had the honour of speaking on this Bill, one objection which persons who are required to sign a declaration under that Act raised was that they could not conscientiously sign a declaration with a mental reservation and that it was not right that the law should compel them to sign it. I shall very briefly

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point out the reasons,—the historical reasons,—which culminated in the framing of that form which constitutes a declaration under the Act. As far back as 1832 a Royal Commission was appointed by an Act of Parliament for the purpose of revising and codifying certain important branches of Indian law. That Royal Commission sat and framed what is now known as the *lex loci* Act, the official designation of which is the Removal of Caste Disabilities Act. That Act was enacted as Act XXI 1850. The underlying principle of that Act was that no person shall suffer any penalty by the mere fact of his renouncing a caste or religion. Later on, in 1856 the Legislature passed what is known as the Hindu Widows' Re-marriage Act. That legalised the re-marriage of widows. In 1868 that great jurist and lawyer Sir Henry Maine, the then Law Member of the Viceregal Council, pointed out in the late Imperial Legislative Council that it was the bounden duty of the sovereign to provide for the marriage of all his subjects and if they wished to marry, no impediment of caste, creed or otherwise should stand in the way. If the State does not enact a civil marriage law the consequence is that it leads to promiscuous intercourse and concubinage. He therefore placed before the Legislative Council a Civil Marriage Bill. But before the Bill could become law, his term of office ended and he was succeeded by another jurist, Sir James Stephen and he again circulated the Bill, collected all the opinions and made the following summary of the cases to which he adverted. This is what he said :—

'The cases which I have quoted appear to me to establish in the broadest way that on the most general principles it is just, equitable, and according to good conscience that all men should have a right to marry although the law to which they are subject may prescribe the manner in which their right is to be exercised.'

In India, as we all agree, there is no fundamental common law other than the law of justice, equity and good conscience upon this subject. If a man is not a Hindu, 3 P.M. nor a Muhammadan, nor a Parsi, nor a Christian nor a Jaina, no form is prescribed for him by law. Does it follow that he cannot marry at all? Certainly not. What follows is that his right must be determined by the general maxim that contracts for a lawful object and made on good consideration are valid and must be performed, and I have yet to learn that marriage is, in a general sense, unlawful or immoral or a promise to perform conjugal duties by the wife or the husband is not a good consideration for the promise to perform reciprocal duties by the husband or the wife.

He then said that we must have a Civil Marriage law. Then the question arose whether there was a large public opinion to support the enactment of such a marriage law. The Brahmos of Bengal who had moved the Imperial Legislative Council to enact a law for themselves were of opinion that they were perfectly prepared to declare themselves as non-Hindus and therefore they accepted the form which was then prescribed and Act III of 1872 became an Act of the Imperial Legislature. A very large number of marriages have been contracted under the Act of 1872 but in a recent case their Lordships of the Privy Council laid down that both Brahmos and Sikhs as well as Jains were Hindus and the decision of Sir James Stephen, who had in 1872 taken for granted that if the Brahmo said he was not a Hindu there was an end of the matter, was upset by the decision of their Lordships of the Privy Council. Well, Sir, that was the state of the law till the judgment of the Privy Council was given. About 13 years ago, the Honourable Mr. Bhupendranath Basu, now a member of the Secretary of State's council, revived this piece of legislation which Sir Henry Maine had placed before the Legislative Council, and it was considered but afterwards it failed to become law. Later on Mr. Patel wanted to introduce and did introduce a more restrictive measure legalising the marriages between the Hindus of different castes."

Mr. S. C. Mitra: On a point of order. Is a Member entitled to read the whole debate that passed over this Bill on a former occasion from the printed debates?

Mr. Chairman (Sir Hari Singh Gour): As this point of order has been raised before, I wish to make it clear that it is perfectly open to a Member to read a speech or extract and say those are his views in the same sense that he reads a written speech. There is no Standing Order that precludes a Member from reading extracts, but it must be left to his good sense.

Mr. Amar Nath Dutt: I am trying to convince the House that the arguments, with which you introduced this Bill, are unanswerable and I thought it fit to acquaint the House as briefly as possible with them. If my friend apprehends that I shall go on reading the speeches of others, I may tell him that I am only making a selection of the important passages which are so finely expressed that I can never aspire to express them so well in my own words. It goes on:

"It was referred to a Select Committee but after it emerged from the Select Committee, it was considered that as the reforms were about to be announced and the constitution of the Imperial Legislative Council revised, it would be better if this measure was reintroduced in the popular Chamber. Well, Sir, taking the cue from the deliberations of that Council, I took the earliest opportunity of reintroducing a measure which has been referred to the Select Committee and which emerges from that body with a unanimous report. This is, Sir, shortly the history of marriage law in this country. After it came back from the Select Committee I have been besieged with inquiries by my friends of both complexions, reformers and orthodox, and I shall now briefly explain the reasons which have led the Select Committee to recommend for enactment this measure in the form in which it is presented to this House."

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muham-
madan Rural): Do you like to hear the music of your own voice?
(Laughter.)

Mr. Amar Nath Dutt:

"I shall first deal with the objections of the reformers. They say 'What we wanted you to do is to enact a general civil marriage law. What you have done is to decapitate the measure the principle of which we accepted and it has come out of the Select Committee in an extremely crippled, restricted and circumscribed form. If we are to fight for civil marriage law let our fight be continued but we are not prepared to accept this half way house'. To them, I say, Sir, that the Select Committee have very carefully considered this objection of the reformers and they came to the conclusion, that it is much better in a case of this kind to take along with them public opinion and it is better that we should have a narrow and restricted measure than to work for a Civil Marriage law. Then, Sir, to them I say, that if the Bill is not acceptable they are not better off and no worse off than they were under Act III of 1872. The additional sections which are awaiting your judgment"

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): I venture to rise to a point of order. There has been a ruling—I cannot lay my finger on it just now—that when an Honourable Member begins to quote extracts from any book or authority, he has got to do it within reasonable limits, and if he exceeds those limits, the Chair has a right to stop it. It is not left entirely to the speaker's own will. I would appeal to the Chair now to intervene and stop the reading of extracts which has now been going on for a quarter of an hour.

Mr. Chairman (Sir Hari Singh Gour): I pass on the appeal to the Honourable Member.

Sir Cowasji Jehangir: I raised the point of order that the right is vested in the Chair. It is for the Chair to exercise it. It can refuse to exercise it.

Mr. Amar Nath Dutt: Sir, I shall try to be as brief as possible in dealing with this matter. I am quoting your language, because I cannot express it better. Otherwise I would have said the same thing in my own humble way which may not be so convincing to my Parsi friend and to my Hindu friend. I shall be as brief as possible. It goes on:

"Therefore I submit that if anybody has any objection on the ground that the measure now before the House is a narrow and more restricted one, he has only to say to himself, 'I shall ignore it. I am in no way prejudiced by it and therefore I should not object to it'. Then, Sir, it has been said that this measure creates a paradox. Under Act III of 1872, a Hindu contracting a marriage by subscribing to a declaration that he does not profess the Hindu religion still remains subject to Hindu law regarding succession and the enjoyment of his property; but by making a declaration under this part of the Act that he is a Hindu he will be deprived of his personal law and he will be subjected to the restrictions now embodied in the various sections of my Bill. My answer is that, here again it is a matter of opinion. If you wish to make a declaration under the first part, by all means do so, and you will continue to enjoy all the rights and privileges which are given to you under that part of the Act. But if, on the other hand, you have conscientious scruples in the making of a declaration under that part of the Act, then you declare under the second part and place yourself under the disabilities created by that part. You are in no way prejudiced. Your position has been improved to that extent that you are not bound to make a declaration which you cannot conscientiously subscribe to, for you are given the option of subscribing either to one declaration or the other."

Now, my friend, Sir Cowasji Jahangir, should feel relief, because I have finished quoting your unanswerable speech which you were pleased to hurl upon a previous Assembly; and my Honourable friend, Sir Cowasji Jahangir, does not belong to any of the religions which are enumerated here, viz., "Hindu, Buddhist, Sikh or Jaina". And, in fact, Sir, you may remember efforts to have them included also, that is the Parsis and the Muhammadans, but as they did not want it, therefore you excluded them. I, therefore, invite my Honourable friend, the Raja Bahadur's attention to this very fact that only when there was a demand, was it done. You acted according to public opinion, because there was a demand, there was no opposition to it; while as there was opposition from my Muhammadan and Parsi brethren, you at once omitted them, but you included only Hindus who did not object to this and then only were you pleased to bring them within the ambit of this amendment of the previous Act.

Raja Bahadur G. Krishnamachariar: That is not correct. There was strong opposition from the Hindus.

Mr. Amar Nath Dutt: Well, there might have been a microscopic minority that might have objected, but that was not heard and that need not have been heard. Then, I have referred to the changes which were made in this Act. Now, this is the state of things and the question now is, what are my friend's objects and reasons in introducing a repeal measure? I have carefully perused his Statement of Objects and Reasons. In the long, nearly one and a half printed pages of foolscap which he has appended, however, he has not been able to meet and he has not even attempted to meet the cogent arguments which induced you to introduce your amending measure at that time, and I find that he only makes certain references about Hindu dissenters. My friend says in his Statement of Objects and Reasons:

"The Special Marriage Act of 1872 was originally intended to meet the urgent demand of the Brahmos and other Hindu dissenters as their legal position at the time regarding marriages was found to be that no form of marriage legally constituted and valid beyond all doubt or question was provided for them."

Here my friend is almost at one with you, but he does not see the same wisdom in the legislation as you have done.

Raja Bahadur G. Krishnamachariar: I have remained ignorant in spite of age!

Mr. Amar Nath Dutt:

"In meeting this restricted position the late Sir Henry Maine attempted to make the question the opportunity for passing a Civil Marriage Act of a most comprehensive nature and in doing so he proceeded on an entirely mistaken view of the position of the Indian Law in this country....."

Here I want to join issue with my Honourable friend. He says 'Civil Marriage Act of a most comprehensive nature'. Really, it was a very small Act confined to a very small community and only a particular section of the community; it cannot in any way be called an 'Act of a most comprehensive nature'.

Mr. C. C. Biswas (Calcutta: Non-Muhammadian Urban): Sir Henry Maine's was a very different Bill from what became the subsequent Act.

Mr. Amar Nath Dutt: My friend, when he comes after me, will probably enlighten us more on this matter. (Voices: "Go on, go on.") Of course there are some great names here for whom I have the highest regard and respect as the Raja Bahadur has,—for instance, Sir T. Muthusami Aiyar, Mr. Ramaiengar and others. But at the same time he says:

"Subsequent to the passing of the Act, attempts were made to amend it on two different occasions, but at each time with a different purpose."

Sir, we are not aware of that. There was a short history which you gave, however, in this connection and, by the way, over the reading of which my friend, Sir Cowasji Jehangir, felt so much irritated (*An Honourable Member*: "Probably he got nervous.") Perhaps:

"The result was that the Bill had the effect of introducing a great change into 'Native Law' and involved interference with 'Native social relations'...."

Here, Sir, I must pause to object to these phrases. I cannot understand why, after three decades of the 20th century have passed, any one should still quote from some archaeological finds of some library which refers to Indians as "Native" and our affairs as "Native social relations".

Raja Bahadur G. Krishnamachariar: I only followed your Socrates.

Mr. Amar Nath Dutt: I may here relate an interesting story for the edification of the House. When a Civilian was on leave in England (I am referring here to the Indian Civilian of those days, not of the present day), the son of a certain subordinate of his, viz., son of a Sub-Judge, went to England to study in Oxford and the Civilian District Judge on meeting him one day asked him: "How many native students are there in Oxford?" The Indian student at once replied: "About 700 or 800." He was very much surprised. This was about 40 years ago, and, because he meant "Indian students" by the term "native", Sir, he was surprised. Then he said, "What? 700 or 800? How can that be?" Then the Indian student added, "there are only six Indian students." He at once understood the point.

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I think, such words as "Natives" have fallen into disuse after a retort like that and my friend need not have used even inverted commas to remind us of "Native law" and "Native social relations" of those days.

Raja Bahadur G. Krishnamachariar: I had to follow your Socrates.

Mr. Amar Nath Dutt: Then, Sir, subsequent to the introduction of the Reforms, Sir Hari Singh Gour renewed the attempt.

Mr. Chairman (Sir Hari Singh Gour): Order, order. The Honourable Member is aware that what he is reading is in the hands of the Members of the House and I would, therefore, request him no longer to read those things which are available to the Members.

Mr. Amar Nath Dutt: I shall not read it, Sir. But I beg to submit that the Statement of Objects and Reasons has nothing convincing in it if I am allowed to criticise it. The best criticism is to be found in this book about which my friend, Sir Cowasji Jehangir, is so very nervous. However, I think I have already encroached upon the time of the House and the House will pardon me if I take a little more time to say a few more words.

Sir, the amendment moved by my Honourable friend is a very simple one, namely, he wants that the Special Marriage (Amendment) Act of 1923 be repealed. But the effect of it is great, because it will compel truthful men to tell lies, and many other complications will arise. I think the Raja Bahadur will not mind my saying that it would be better if a Bill like this were reserved for the Legislature which will come after the Reforms. He knows very well that in this House heterodox opinion prevails and he stands a very little chance of carrying through such measures. Sir, even I, who has been always with him whenever I found that he had a just grievance, am unable to be with him in this matter and I am afraid I cannot be with him in other matters of this type. I shall be with him only in such matters where I conscientiously feel that it is really an interference with the liberty of the Hindus so far as their religion goes. Sir, I do not like the Raja Bahadur to compel me to have some vermilion painted on my forehead or to have a *chutki* (tuft of hair) on my head. Similarly, I do not like to thrust my own views upon him and to compel him to do away with the *purda* and ask the Rani Sahiba to come out in the public or to have his daughters and grand-daughters married at the age at which we are accustomed to marry them. I will not like to thrust my views upon him and let him not thrust his views upon us. That is my principle. I think the State also will be well advised if they also not interfere in matters like these. That is my request to them. I do not want the State to interfere in matters of social relationship unless they encroach upon the equal liberty of others living in the same society. Sir, there are people who believe in several gods and there are others who believe only in one God. Those who believe in one God think themselves to be superior to those who believe in several gods. But there are some thinking people who do not believe in one or more gods and, at the same time, they do make this allowance for the views of others.

Mr. O. S. Ranga Iyer: I should like to inquire whether this discussion in relation to gods and the anticipatory discussion about the next Bill is relevant?

Mr. Amar Nath Dutt: I am only saying why we should not interfere with the matters that concern matters of faith. As we want that we should be left free, we shall also leave them free. Sir, I have always been with the Raja Bahadur and have never interfered with his views on social rites and customs, and I would like to ask him, whether it is proper for him to interfere with the social rule which a particular community wants to observe or observes according to the present enactment. That being so, I appeal once more to my friend, the Raja Bahadur, to withdraw this Bill, and I for one shall vote wholeheartedly for its withdrawal. But if he does not think it proper to withdraw his Bill, I think he had better accept the amendment which has been moved by my friend, Mr. Badri Lal Rastogi, for the circulation of the Bill. After the circulation of the Bill, I am sure, my Honourable friend, the Raja Bahadur, will be convinced that there is no necessity to proceed further with the Bill. He will find that public opinion is against it and he will also find that he was unnecessarily going to interfere with the social rites and customs of a particular community who are our countrymen. That being the case, if this Bill is opposed at the present moment, I shall wholeheartedly support the opposition. If no vote is taken on that, then I shall support the circulation motion of my friend, Mr. Rastogi. With these few words, I bring my remarks to a close.

Several Honourable Members: Let the question be now put.

Mr. Chairman (Sir Hari Singh Gour): I accept the closure. The question is that the question be now put.

The Assembly divided:

AYES—27.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bagla, Lala Rameshwar Prasad.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Fazal Haq Piracha, Shaikh.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Joshi, Mr. N. M.
Lalchand Navalrai, Mr.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Maswood Ahmad, Mr. M.

Mitra, Mr. S. C.
Mudaliar, Diwan Bahadur A. Rama-
swami.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Parma Nand, Bhai.
Rajah, Rao Bahadur M. C.
Ranga Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Roy, Rai Bahadur Sukhraj.
Sarda, Diwan Bahadur Harbilas.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Uppi Saheb Bahadur, Mr.
Wajihuddin, Khan Bahadur Haji.

NOES—17.

Ahmad Nawaz Khan, Major Nawab.
Anklesaria, Mr. N. N.
Biswas, Mr. C. C.
Dutt, Mr. Amar Nath.
Jawahar Singh, Sardar Bahadur
Sardar.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Krishnamachariar, Raja Bahadur G.

Lahiri Chaudhury, Mr. D. K.
Misra, Mr. B. N.
Mukherjee, Rai Bahadur S. C.
Puri, Mr. Goswami M. B.
Raghubir Singh, Kunwar.
Rajah, Raja Sir Vasudeva.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Thampan, Mr. K. P.

The motion was adopted.

Raja Bahadur G. Krishnamachariar: Sir, I must really protest against the manner in which the debate has gone on on a most important Bill in which the interests of the entire Hindu community are at stake. There were only two speakers who had an opportunity of speaking. My friend, Mr. Amar Nath Dutt, always protesting his regard for me went on criticising me, to which I do not object; but in criticising, he went on reading something which I never understood and he wasted the time of the House by quoting a speech which is already in print, but nobody ever probably cared to read and which he wanted to give some publicity to by going on reading and reading although he himself did not probably know why he was quoting all that. I think, Sir, you felt very uncomfortable when he started talking about the wisdom that actuated you in getting that old Bill passed.

So far as I can see, there is only one speech to which I need reply, because there have been no speakers although I know more than half a dozen friends wanted to speak, that is the speech of my friend, Mr. Amar Nath Dutt. It is perfectly true that he has been all along with me, but today I have the misfortune that he not only is not with me, but he has given me notice that hereafter he may not be with me in some other matters also. That is a calamity which I hope is not going to happen. But what, after all, did he say? He complimented you for having inserted provisions which unfortunately he relied upon in support of his own case. But the crux of your Bill, which was passed as Act XXX of 1923, was that a man, who wanted to be called a Hindu and who wanted to practise all the rites of the Hindu religion, should be compelled when he wanted to marry a woman to declare that he was not a Hindu. That is to say, as I understand it, he wanted that he should be known, called and recognised as a Hindu. That is the reason why he wanted this amendment. What is the result? Every portion, every bit of rights under the Hindu Law he has been deprived of. He is thrown out of the family. He has no right to manage any religious or charitable institution. He has been deprived of the right of succession under the Hindu Law. He has been deprived of the right of adoption, and he is supposed to be civilly dead, because the father can adopt a boy though his first son is alive. Is that the way which actuated the Mover of the Bill in moving what, after all, is claimed to be a permissive measure? But, Sir, this is a dead animal and I do not want to beat it, and to take the time of the House. Consequently, Sir, I submit that there is absolutely nothing to which I could reply in that speech. There is, however, one thing that I want to say. I am quite prepared, if it came to that, to have this Bill circulated, because I am honestly and seriously of opinion that this Bill has not been taken advantage of, and that, therefore, it need not continue to be a blot on the Statute-book. Therefore, I am quite prepared to accept the motion for circulation, and request the House to accept it.

Mr. Chairman (Sir Hari Singh Gour): The original question was:

"That the Bill to repeal the Special Marriage (Amendment) Act, 1923, be taken into consideration."

Since which an amendment has been moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933."

The question now I have to put is that that amendment be made.

The Assembly divided :

AYES—13.

Ahmad Nawaz Khan, Major Nawab.
Anklesaria, Mr. N. N.
Dutt, Mr. Amar Nath.
Ghaznavi, Mr. A. H.
Krishnamachariar, Raja Bahadur G.
Misra, Mr. B. N.
Puri, Mr. Goswami M. R.

Raghubir Singh, Kunwar.
Rajah, Raja Sir Vasudeva.
Rajah, Rao Bahadur M. C.
Rastogi, Mr. Badri Lal.
Suhrawardy, Sir Abdulla-al-Māmūn,
Yakub, Sir Muhammad.

NOES—24.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Bagla, Lala Rameshwar Prasad.
Biswas, Mr. C. C.
DeSouza, Dr. F. X.
Dutt, Mr. G. S.
Dutt, Mr. P. C.
Jadhav, Mr. B. V.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.

Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Mitra, Mr. S. C.
Mudaliar, Diwan Bahadur A. Rama-
swami.
Mukherjee, Rai Bahadur S. C.
Parma Nand, Bhai.
Ranga Iyer, Mr. C. S.
Roy, Rai Bahadur Sukhraj.
Sarda, Diwan Bahadur Harbilas.
Seaman, Mr. C. K.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Thampan, Mr. K. P.

The motion was negatived.

Mr. Chairman (Sir Hari Singh Gour): The question is :

“That the Bill to repeal the Special Marriage (Amendment) Act, 1923, be taken into consideration.”

The Assembly divided :

AYES—12.

Ahmad Nawaz Khan, Major Nawab.
Biswas, Mr. C. C.
Ghaznavi, Mr. A. H.
Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.

Misra, Mr. B. N.
Mukherjee, Rai Bahadur S. C.
Puri, Mr. Goswami M. R.
Rastogi, Mr. Badri Lal.
Sen, Pandit Satyendra Nath.
Suhrawardy, Sir Abdulla-al-Māmūn.

NOES—30.

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Abdur Rahim, Sir.
Amir Hussain, Khan Bahadur Saiyid.
Ashar Ali, Mr. Muhammad.
Bagla, Lala Rameshwar Prasad.
DeSouza, Dr. F. X.
Dutt, Mr. G. S.
Dutt, Mr. P. C.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Lalchand Navalrai, Mr.
Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Mitra, Mr. S. C.

Mudaliar, Diwan Bahadur A. Rama-
swami.
Parma Nand, Bhai.
Raghubir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Ranga Iyer, Mr. C. S.
Roy, Rai Bahadur Sukhraj.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Singh, Mr. Pradyumna Prasad.
Sitaramaraju, Mr. B.
Thampan, Mr. K. P.
Uppi Sahab Bahadur, Mr.

The motion was negatived.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. Chairman (Sir Hari Singh Gour): The Honourable Member, Haji Wajihuddin, has got two Bills. No. 8 on the list is wider than No. 7. Do I understand him to move both?

Khan Bahadur Haji Wajihuddin (Cities of the United Provinces; Muhammadan Urban): Sir, I wish to move No. 7. I beg to move:

"That the Bill to amend the Child Marriage Restraint Act, 1929, for certain purposes be circulated for the purpose of eliciting Muslim public opinion thereon."

Sir, in introducing the Bill to exclude Muslims from the operation of the said Act, I have been prompted by the desire to safeguard the first and foremost article of our liberty, namely, the immunity of the personal law of Muslims of India from interference by the State, which, though guaranteed by Parliamentary Statutes, has been jeopardised by the Act which is hereby proposed to be amended. I have taken into consideration the political dangers and the economical and social evils which are sure to emanate from the enforcement of the Act which has, by a series of unconstitutional actions, come to occupy a place in our Statute-book.

Sir, the most weighty argument for the amendment of the Child Marriage Restraint Act, 1929, is that it interferes with religious freedom. So far as the Muslims are concerned, the application of the said Act to them was not only unjustifiable, but also uncalled for. It is, therefore, obvious that the evil that Act was designed to eradicate does not lie in the marriage ceremony itself, but in the consequences of sexual intercourse before attaining puberty. Islam has already provided a check on pre-puberty sexual intercourse. According to Islamic law, not only pre-puberty sexual intercourse is forbidden, but the entrusting of the wife to the husband is also discouraged before they attain puberty. So, for the Muslims there was no necessity of the Child Marriage Restraint Act to prevent pre-puberty sexual intercourse.

Sir, another evil which emanates from early marriages is that it tends to increase the number of young widows and, where widow remarriage is forbidden, the increase in the number of marriageable widows results in a great deal of misery, social trouble and immoral practice. There is, however, no such danger for the Muslim community, because Islam not only allows the re-marriage of widows, but lays special emphasis on its desirability. Another blessing which may be attributed to the Child Marriage Restraint Act is that, by prohibiting marriage in childhood, when the parties to the marriage contract do not possess the ability to exercise their own will in accordance with reason and good sense in the matter of choice for marriage, it has minimised the possibility of strained relations between the husband and the wife and has ensured matrimonial happiness, domestic peace and harmony. But, Sir, the Muslims do not require the said Act to save them from the consequences of marriages performed before the parties to the marriage attain the age of discretion. Because Muslim law prescribes that if a marriage takes place before the attainment of the age of discretion by the husband or the wife or both, such husband or wife or both can have the marriage dissolved by dissenting to it on attaining the age of discretion. Let me say frankly, Sir, that in socio-religious matters, Islam does not prescribe cut and dried details of a uniform nature for each and every individual without regard

to his individuality or the peculiar circumstances under which the individual is placed. Islam only lays down wide principles, which define the limits that are not to be transgressed by a Muslim, but within those wide limits each individual finds plenty of scope for the adoption of a line of action that may be specially suited to his particular needs and to the peculiar circumstances of his life. This freedom of the individual within the wide limits of broad principles is the keystone of Islam. An encroachment on this freedom of the individual is, therefore, as sacrilegious and offensive to a Muslim as a ban on a positive commandment of Islam. To a Muslim, religious liberty does not mean merely the freedom to perform what his religion makes it obligatory for him to perform, but it also includes his freedom to do what his religion does not prohibit him to do. The religion of a Muslim leaves him free to marry at any age which he considers desirable in his particular case, and the Child Marriage Restraint Act is exceedingly offensive to him, because it interferes with the liberty of the individual in matters of marriage which is one of the fundamental principles of his religion.

Sir, the Muslim is commanded by the Koran to follow in the footsteps of his Blessed Prophet (Sallallahu-alehai-Wassallam). For him the conduct of the Blessed Prophet is the ideal of human conduct. Consequently, it is shocking to a Muslim to be treated as a criminal for the marriage of his son or daughter in childhood, the lawfulness of which was demonstrated by the example set by the Blessed Prophet who married Hazrat Aisha Siddiqa Radiallaitala Anha when she was a minor. A number of instances of child marriages among the comrades of the Blessed Prophet (Peace be upon Him) may be quoted. The marriage ceremony of the infant son of Hazrat Umme-Salma with the infant daughter of Hazrat Hamza, Shaheed-i-Ohad, was supervised by the Holy Prophet. (*Vide "Ahkamul Quran Razi Hanafi", Vol. 2, page 55.*)

Sir, these are the examples which a Muslim regards with feelings of reverence and in his eyes they provide a religious sanction for child marriage in those cases where circumstances make it desirable. I, therefore, say, Sir, that there is no need for the Child Marriage Restraint Act for the regeneration of the Muslim society. Child marriage is not a common feature of the Muslim community and the Muslims are not temperamentally inclined to indulge in it unnecessarily. But Islam does not take only the normal conditions into calculation; it provides for all the conceivable situations of practical life. Child marriage is, therefore, among the Muslims an extraordinary measure which is adopted only when the peculiar circumstances of a particular case make it necessary. Such peculiar and extraordinary circumstances of practical life have not ceased to exist by the passing of the Child Marriage Restraint Act, and the prohibition of child marriage in those peculiar and extraordinary circumstances, in which it is proper and desirable, will bring about more harm than good. For instance, I may say that old age and lack of trustworthy relatives to look after the interests of his children after his death may justly and reasonably prompt a prudent man to arrange for the marriage of his children in their childhood, and, in that case, child marriage may be the only suitable means of securing the happiness and prosperity of the children. Likewise, economic causes and pecuniary circumstances may compel the parents to arrange for the marriage of several of their children simultaneously and it may not be convenient for them to wait till the youngest of the children attains the minimum age.

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prescribed by the Child Marriage Restraint Act. Similarly, a marriage of children may, in some cases, be the only means of restoring peace and amity between estranged families or of preserving the family property or the family status. And last, but not the least, child marriage may, in some cases, be the only method of providing adequate protection for the orphans.

Sir, it seems to me quite needless to recount the whole history of the Child Marriage Restraint Act of 1929, which the present Bill proposes to amend. In fact, the whole affair is so fresh in our memories that an attempt to do so will be a mere waste of time and energy or worse than that, it may not tend to produce ill feeling where even the enumeration of facts may reflect on personal matters. But at present I need the sympathy of the whole House. Let us forgive and forget. Let not our personal feelings stand in the way of national interests and religious liberty. I know and fully realise that it is the same House, and my Honourable friend, Diwan Bahadur Harbilas Sarda, is present in the House, who only four years back saw the Bill through and who helped it to become the law of our country. It may look on the surface as strange and paradoxical why should we do and undo the same thing. As all of us know, time and experience are the best standards to judge the merits and demerits of any human achievement. The whole history of civilization is full of examples to show that the judgment of many a wise statesman has not always proved successful and often they had to change their views in the light of experience. We are no exception to the general rule. The past experience of some four years has clearly laid before us at least the spirit with which the Act has been viewed by our people.

No one can deny that since it was proposed, passed and enforced, very strong feelings of resentment have been aroused in the minds of the great mass of population especially Muslims. The Government have already realised its difficulties and troubles in this connection, because it is a well known fact that numerous marriages have been celebrated in contravention of the provisions of this Act even after its coming into force. The Government have so far wisely taken a lenient view of the situation. It is very doubtful whether this state of affairs can be prolonged for an indefinite period. On the other hand, there are indications that the Government might be forced to apply strictly the provisions of the Act especially in regard to the institution of prosecutions, with the result that the religious feelings and susceptibilities of the orthodox population will be seriously inflamed to disturb the internal peace of the country. Particularly the Muslim community in all the provinces in British India regard the Child Marriage Restraint Act as directly opposed to the tenets of, and practices enjoined by Islam. It is, therefore, considered as religious interference, in contravention of the oft-declared and well-established policy of the British Government so strictly observed up to this time. It is unnecessary to repeat all the arguments to prove that marriage in Islam is not a mere social contract as it was once contended, but an inviolable religious sacrament. Again, the inherent nature of a Muslim marriage has been so ably pointed out by my friend, Maulvi Sir Muhammad Yakub, in his dissenting minute to the Age of Consent Committee report, that it is impossible to add anything. But as regards the sanction of child marriage in Islam, I may point out a few of the strongest arguments given

by Maulana Kifayatulla, the President of the *Aljamiatul-Ulama-i-Hind*, in his letter dated the 7th November, 1929, to His Excellency the late Viceroy of India on the subject. These arguments, based on the best and highest religious authorities of Islam, have been accepted and confirmed by a large number of Ulamas and all notable religious centres in the country, so that it is impossible to deny them. But, as we know, the Act in question does not only restrain pre-puberty sexual intercourse, but marriages also, and not only that, but it penalises marriages of those who may have attained puberty if they have not attained the age improvised by law. If we look to actual facts, we may find a considerably large number of cases in which girls attain puberty before 14 years and boys before 18 years of age. But Islam, in order to guard against the prevalence of fornication and demoralisation, has enjoined to marry boys and girls as soon as they attain puberty, at any age. Under such circumstances, the marriage becomes a compulsory religious duty and the Child Marriage Restraint Act, standing in the way of its performance, means an encroachment on the religious duties of millions of Muslims in India. How can they accept it without neglecting the doctrines of their religion which is so dear to them, and for the sake of which they can willingly lay down their lives! Whatever has been argued from religious proposition, it is simply meant to prove that marriage is purely a religious question and, therefore, any legal restrictions on it will be deemed as religious interference and as molestation of people on account of their belief.

Lastly it is to convince a few of my co-religionists who, owing to their good motives in their enthusiasm for social reform, were misled by the alluring appearances and, not being well versed in religious matters, could not detect the pitfalls under the green. But I am quite sure that these gentlemen must have learnt by this time from our Ulama the right attitude of our religion towards this question. If still there are some doubts on this point, then I must show that as long as we recognise the policy of perfect neutrality in religious matters and of liberty of faith, it is not necessary at all to prove whether a certain belief of a particular class of people is right or wrong or whether these people have any written authority or scripture to support their belief. All religions and religious differences would cease to exist as soon as the whole humanity agrees with the ideas of right and wrong. As long as different religions count Indians among their adherents, it is impossible to regulate social and religious matters by one uniform law applicable to all. We have simply to see what actually a community believes, and we shall have to respect that belief as long as it does not molest others. In this particular case too, we should take the trouble to know that the very great majority of the Muslim people believe that the Act means molestation of their belief and interference in their religion. They have every right to demand their exclusion from the application of the Act. Justice requires that they should be excluded forthwith.

Here I shall briefly refer to how the Muslims protested against the Act even before it was passed and enforced. In the earliest stage of the Bill, as early as March, 1928, the late Maulana Muhammad Ali published a long article in the *Daily Hamdard* in order to voice public resentment against the Bill. He gave strong arguments to prove the impropriety and undesirability of the enactment. On the 10th April, 1928, the *Daily Aljamiyat*, the chief organ of the Ulama, published a very strong article against the application of the Bill to the Muslim community. About the

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same time, the Muslim Members of the Assembly received a number of telegrams to the same purpose from the various Muslim religious centres. These were afterwards published in the *Aljamiyat* and in the Muslim press throughout India, more articles were published and by profusely citing religious authorities it was clearly proved that the proposed Bill was against the tenets of Islam. In September, 1928, 22 Muslim Members of the Assembly laid before the Government a memorandum to show their disapproval of applying the Bill to the Muslim community. On the report of the Select Committee, two Muslim Members wrote their dissenting minutes, because the proposed Bill violated the principal law of the Muslims. I understand my Honourable friend, Mr. Ghuznavi, handed over to the Home Member a *fatwa* signed by a number of leading Ulama of India to prove that the Bill was a religious interference and unacceptable for the Muslims. In February, 1929, when the Bill was under discussion, many Muslim Members expressed their disapproval, but in September, 1929, when it came for final discussion, out of 22 Muslim Members present, 16 opposed the Bill and handed over a written statement to the Honourable the Home Member. My friend, Maulana Muhammad Shafee Daoodi, proposed an amendment to exclude the Muslim community from the application of the law, but the amendment was dropped by the opposition of the majority of the House. As the last resort, the majority of Muslim Members walked out as a protest and the Bill was passed by the House regardless of Muslim opposition. All the Muslim Members of the Council of State unanimously opposed the Bill, but again it was passed by the majority of that Honourable House. A Muslim Deputation was formed, which earnestly requested His Excellency the Viceroy to exclude the Muslim community from the application of the Bill by means of a special Ordinance. During all this time strong articles were written against the Bill by many representative leaders of the community. In the whole of India, large meetings of Sunnis and Shias were held, resolutions were passed and communicated to His Excellency. All the chief organs of the Muslim press, like the *Inqilab*, the *Zamindar*, the *Millat*, the *Aljamiyat*, the *Sach*, the *Himmat*, the *Siyaasat*, the *Sirat*, the *Mahajir*, the *Asr-i-Jadid*, the *Alaman*, the *Khilafat*, the *Haqiqat*, the *Imarat*, the *Tarjuman-i-Sarhad*, the *Shahab*, the *Ittihad* and the *Alkhalil* voiced public opinion against the Bill. In short, the Muslim leaders and representatives tried all constitutional methods to impress the Government with the resentment of the Muslim community against the Bill.

It was a matter of great regret and no less astonishment that a social reform was thus forcibly thrust upon an unwilling people, with the help of a tyrannical and unconstitutional legislation. I call it tyrannical, because it was forced on the people, because it violated the freedom of belief and threatened to molest people on account of their beliefs, and because it set aside the promise of religious neutrality and of defending the civil and social rights of the people—promises that were solemnly given by Her Majesty Queen Victoria to her subjects and strictly fulfilled and confirmed by Her Majesty's successors and deputies. I call it unconstitutional, because all of us are fully aware how the Bill, that was recommended by the Select Committee and finally passed by the House, widely differed in form and principles from what it was at its first stage and that no special permission was ever obtained from the Governor General to make the changes. In fact, the Select Committee itself were doubtful and divided as to the propriety of materially amending a Bill whose principle

had already been accepted by the Assembly and of adopting the unusual step of substituting an entirely new Bill of quite a different nature. It was advocated in favour of the Bill in question that it would effect a desirable social reform. But it must be borne in mind that social reforms can with best effect be made only through the gradual education of the people concerned and not by means of legislation. History teaches us that such attempts have always proved futile unless the people have already been prepared for it. Such laws, however good they may be in their aim, invariably end in disaster. They aim at killing a vice, but without achieving their object, they create thousands of other evils. It is not fit for law to trespass upon the domains of popular beliefs or religion; otherwise it is sure to result in utter failure. Moreover, in social and religious matters, there must be allowed a wide margin for different circumstances and variations in actual life, and no secular law can ever encompass all of them. Thus social matters, if narrowly regulated by law, must cause a great deal of hardship for the people. To illustrate, I may give an example. Suppose a widow, with a daughter, aged thirteen, is at her death bed. Having no relatives to take care of the daughter, the mother is much worried about the young girl and the only way out of the difficulty is to marry her, so that she may be looked after by her husband or his family when the mother is gone. But, under the present law, she is unable to avail herself of this method. Imagine the painful agony which would torture the mind of the poor soul and think of the possibilities of the young girl being drifted away by temptation or lust. Many other examples can be added and yet they actually occur in daily life and are not mere flights of imagination. Moreover, evils are caused by pre-puberty sexual intercourse, which is a crime in the eyes of Islam. No evils arise from the marriages of minors especially under Muhammadan law, which allows the marriages of widows and which provides that the marriage of minors can be dissolved if the parties desire it after attaining majority.

- Again, I would venture to impress upon the House that individually we are perfectly at liberty to believe or practise as we like, but none of us has a right to impose his personal belief on the masses by means of legislation unless it is perfectly in harmony with the views of confirmed religious leaders, *i.e.*, the Ulamas among the Muslims, and Pandits among the Hindus. Those who are actuated by philanthropic zeal and those who earnestly and sincerely desire to work as social reformers must toil and wait till they convince the people by gentle persuasion. To effect social reforms by means of legislation seems to be a short cut, but unfortunately it leads to the opposite direction and is beset with dangers.

The law in question was originally meant to be a civil law and that was to be applied to one community. But when it was moulded into a criminal law and its application was extended to all other communities, including Muslims too, the people saw a real danger threatening their social and religious structure and encroaching upon their civil rights and privileges. It caused a widespread discontent. Sir, oriental people are often regarded as fanatics. It may or may not be true, but at least religion is still a living motive-power among us. As a matter of fact, it can neither be denied nor ignored. The slightest interference in religious matters excites the greatest resentment among the masses in this country, and martyrs are not lacking in the name of God.

Sir, I think we are very fortunate to have today amongst us a very distinguished personality who holds the office of the Leader of the House

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and who is not only an eminent lawyer and a great statesman, but who is also a staunch supporter of Islamic Law. I may, therefore, call him Allama Sir Brojendra Mitter Sahib, for whom I have the greatest respect and in whose sincerity and frankness I have full confidence. Sir, I appreciate his most historic speech of the 3rd February, 1931, on the motion for consideration of the Special Marriage (Amendment) Bill in which my esteemed friend, the Honourable the Law Member, so vehemently supported the Muslim point of view and declared:

"It is the fixed principle of the Government of India not to interfere in any way whatsoever with the personal laws and customs of the different peoples of India unless they have very strong and conclusive evidence that the change is desired by the people who are affected" (*vide* page 595 of the Assembly Debates of 3rd February, 1931.)

My Honourable friend also stated:

"So far as the Muslim community is concerned, it has been often said and it is, I suppose, believed by some, because of repetition, that a Muslim marriage is a mere matter of contract. It is nothing of the sort. The fundamental basis of a Muslim marriage is religious sanction. Where is the sanction? The sanction, Sir, is to be found in the Koran, the holy book of the Muslims. I shall examine presently what will be the effect of a statutory marriage on the rights and obligations of Muslims under the Muhammadan Law. It will be admitted by everybody that the Muslims are governed by their personal law as the Hindus are governed by their personal law." (Page 597.)

"I said before that Muslims like the Hindus are governed by their personal law. I shall take a few branches of the personal law and very briefly say how each of these branches of the personal law of Muslims will be affected by this measure." (Page 598.)

My Honourable and esteemed friend, Allama Sir Brojendra Mitter Sahib, further said:

"All I am addressing myself to is this that this measure (Special Marriage Amendment Bill) is an interference with the Muhammadan law: it takes away rights from the Muslims which the Muhammadan law gives them; that is all I am concerned with at the present moment. Any Muslim marrying under this measure will be deprived of valuable rights which the personal law gives him or her." (Page 601.)

My Honourable and esteemed friend further observed in these words:

"Sir, we have got two ancient codes of law in this country. These systems of law, the Hindu and the Muslim systems of law, have preserved Hindu society and Muslim society through many centuries. Do not play with these systems by bringing forward this sort of subversive legislation (*i.e.* Special Marriage Bill). It is destructive of the whole structure which has preserved these societies through all these long centuries. It undermines the very foundations upon which these social institutions are based, and the institution of marriage is an important part of that foundation. Sir, I do appeal to this House not to play with the ancient institutions of marriage in this country." (Page 605.)

Sir, these observations of my esteemed friend, the Honourable the Leader of the House, give me every hope of not only his support in this measure, but the unanimous vote of the Government which would be based on exactly the same principle which the Government have already adopted on the 3rd February, 1931. Moreover, Sir, the events of the last four years have amply demonstrated the widespread unpopularity, especially among the Muslims, of the Sarda Act. The rush of child-marriages throughout the length and breadth of India in the short period intervening between its enactment and its enforcement shows how unprepared the country was to accept such a piece of injudicious and impolitic legislation. Even after the date of its enforcement, the Act has been persistently disobeyed. The Government have, heretofore, wisely taken a lenient view

of its violation. It is, however, feared that if the Government insisted on a strict enforcement of this Act, there would be political trouble of a stupendous magnitude, for the Act jars on the most dearly cherished sentiments of the people of India. On the contrary, if the Government allow the people to continue to disobey the Act with impunity, the consequence will be a general decrease of the respect in the eyes of the public for law and order. There is no use having on the Statute-book an Act which should not and cannot be enforced. Laws are to be obeyed and not to be disobeyed. Political wisdom necessitates that the Act be forthwith amended.

After submitting so many convincing facts, I should have moved for the consideration of my Bill, but with a view to having the Government of India convinced that a very great majority of my community is really anxious to be exempted from the operation of the Sarda Act, I move that the Bill be circulated for eliciting Muslim public opinion thereon. I do hope that every section of the House will appreciate my action in this connection which, I think, is quite modest and which affects neither any vital principles of the social reformers nor the attitude adopted in the past by the Government. Let me assure you, Sir, as regards my next step. My motion for consideration will only come up in case the majority of Muslims are in favour of my Bill. So it is a quite harmless motion and is acceptable by all the sections of the House. With these observations, Sir, I move that the Bill be circulated for eliciting Muslim public opinion thereon.

Mr. Chairman (Sir Hari Singh Gour): Motion moved:

"That the Bill to amend the Child Marriage Restraint Act, 1929, for certain purposes, be circulated for the purpose of eliciting Muslim public opinion thereon."

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, at this stage of the Bill it is not necessary for me to deliver a long speech. My object in intervening at this stage is to assure the House that the Muslim community in general is very anxious that the Muslim marriages should not come under the restrictions imposed by this Act. Since this Act was passed, meetings have been held nearly in all the districts, and Resolutions have been passed against it. So, my object only is to show to the House that the feelings among the Mussalmans are very intense, not only because they want to marry their children at an early age, but on the general principle that they do not want any Legislature to interfere with their religious and personal laws and it is on this principle that the Bill for restraining the child marriage was opposed in this House. With these few remarks, I lend my support to the motion moved by my Honourable friend, Khan Bahadur Haji Wajihuddin.

Maulvi Muhammad Shafee Daoodi (Tirhut Division: Muhammadan): Mr. Chairman, our friend, Khan Bahadur Haji Wajihuddin, has done a great service by introducing this Bill which has been the desire of the Muslim community for a very long time. He has given us the history of the Bill as it originated in this House and has traced it successfully up to the present time. I would like, Sir, to draw the attention of the Honourable Members to one point, and it is this. They might have seen in the course of the last four or five years during which Bills of this nature have been brought in this House that the Muslim community does not

[Maulvi Muhammad Shafee Daoodi.]

like any interference whatsoever with their religious laws which is called the Shariat-ul-Islam. It ought to have been very clear to our friends on this side as well as on the Government Benches that the one thing that the Muslims cannot tolerate is that the Shariat-ul-Islam should not be touched by this Legislature and I have been persistent in asserting that if the Hindus like the same privilege for themselves, we should certainly give that privilege to them. It is on that basis that on many occasions when Bills of this nature have come before this House I have personally refrained from voting on those measures and have asked my Muslim friends to do the same. That has been my conviction and, I believe, that if the two great communities act on that principle, there will be great harmony restored to them. But I am afraid it is not being observed. I should not say that it is not being observed by the Hindus alone, but there are some Muslim friends of mine also who at times do not like to observe that principle. I will take this opportunity to remind the House of the great harm that they are doing to both the communities by not adhering to the golden principle of being neutral in religious matters. The Government committed that mistake in 1929 and brought in the Mussalmans in the purview of that Bill and saw the result of it.

I remember the great agitation that was carried on in those days by the Muslim theologians as well as that great enlightened leader of the Muslim community, Maulana Muhammad Ali. He had convened a special Conference of all the theologians both versed in Arabic as well as in English at Cawnpore on the 28rd December, 1929, to discuss whether the measure should be allowed to remain on the Statute-book or not and a vehement protest was made from that town in those days. Even after that, we did not see any change in the mentality of the Government officials. Thanks to the good sense that has prevailed of late, that things have improved. Of course, much credit is due to our learned friend over there, who is the Leader of our House, Sir Brojendra Mitter. Ever since he took charge of his Department he has proclaimed that that was not the principle to be tolerated in this House and since then I see that Government had been keeping neutral. So many Bills have come after that time and on all occasions the neutrality of the Government has been demonstrated. I would appeal to my friends on the other side to act in consonance with that principle in future and never to violate it. But I find that our friends have been trifling with this right. Sometimes they have been manœuvring us in such a manner as to snatch some votes from us for their own community and then they blame us for interfering with their religion. I would ask them to make it a principle in this House to establish a convention that neither the Muslims nor the Hindus should interfere with the religious laws of either of them, and there should not be any violation of this principle in future. If I get an assurance of this nature from the Honourable Leaders of the Hindu community, I would be very much satisfied, and I would feel that so far as legislation on religious questions is concerned, our future is safe. We have, of course, been fighting for this principle to be embodied in the constitution so that any apprehension in the minds of Muslims may not arise at all, but I find that some constitutionalists doubt the wisdom of it. But I would press it till the last so that it may not be secured by convention only, but secured to us by the constitution, and I hope my friends on this side will

make clear to Government that none of the Hindu Members would like to interfere with the Shariat-ul-Islam in any way whatsoever. With these words, I support the motion of my Honourable friend, Haji Wajihuddin.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): Sir, at the very outset I may inform you that I do not propose to take more than five minutes. Sir, I may assure you that so far as I am concerned, I entirely agree with the remarks made by the Honourable Member who has just resumed his seat. In matters pertaining to Hindus, he assured us that he on his part would like his brother Muslims not to take any part. Sir, I think it is a very reasonable suggestion for us to consider and I for my part am in entire agreement with him. Sir, orthodoxy is not my "doxy"; it may be that of my Honourable friend, the Raja Bahadur. Heterodoxy may be the "doxy" of somebody else, but it is not my "doxy" either.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Then which is your "doxy"?

Mr. C. C. Biswas (Calcutta: Non-Muhammadian Urban): Paradoxy.

Mr. B. Sitaramaraju: My "doxy", Sir, is public opinion and when my Honourable friend, the Mover of this motion, suggested that this measure should be referred to the public opinion of this country, I entirely agree with him, because any reference of matters of this kind to the bar of public opinion would not only now, but always, have my support. Sir, I am sorry for one thing. The Honourable gentleman has tabled two Bills; he has taken up only one Bill which refers to the Muslim community. There is also the other Bill which applies to all communities and I wish that the broader question had been taken up for, as the public as a whole are very much agitated over this question and they rightly believe,—there is a very strong section which rightly believes that this is an encroachment on the religious privileges of the people. Sir, if religion is a strong sentiment for the Muslims, it is just as much a strong sentiment for the Hindus as well. The Hindus have as much faith and reverence for their religion as the Muslims have for theirs, and, therefore, I would suggest that in matters of this kind, you have to take the broader aspect and think from the point of view of every one of us. With these few remarks, I support the motion for circulation of this measure.

The Honourable Sir Harry Haig (Home Member): Sir, I do not propose to detain the House long. The House will remember that the question of repealing or amending this Act was before them in the last September Session, and at that time it fell to me to state the view of Government. In the speeches which have been made hitherto, it appears to me that no attention has been directed to the causes which led to the passing of the Sarda Act. It was not from any wanton desire to interfere with the religious practices or beliefs of any community in this country,—that is the last thing that Government desire to do,—but it was because it was believed that this Act would be a step in the direction of dealing with what was felt to be a serious social evil. It was felt that it would tend to alleviate human suffering and to promote the welfare of the race. It was on those grounds and those grounds alone that Government lent their support to this measure. Now, Sir, in order to achieve that result

[**Sir Harry Haig.**]

it was found necessary,—and I do not deny it,—to prohibit practices for which a religious sanction was claimed. That was undoubtedly the case with regard to the Hindu community. Their position was that their religion enjoined upon them the marriage of their children at a particular age. But even so it was felt that the social considerations were so strong and so overpowering that they should prevail.

Now, Sir, we are discussing here the Muslim objections, objections again which I do not in any way desire to underestimate. Sir, the Muslims, as I understand the matter, have never claimed that child marriage is enjoined upon them by their religious law. Therefore, Sir, I think it is not unreasonable that we should ask them to look upon this, as it is intended to be, as a measure of social reform and not one that trenches on the practice of their religion. It may be of course that certain Honourable Members,—the Mover of this Bill appears to be one of them,—feel that for certain material reasons, economic considerations, family difficulties or whatever it may be, it may be desirable in exceptional circumstances that girls should be married before the age of 14. But, Sir, if these are the grounds on which this Bill is supported, I maintain that it is not reasonable to appeal to the precepts of religion. If it is to be on social grounds, well, then, it is sufficient to answer them with arguments of social welfare, and if those arguments of social welfare are weighed against the considerations that my friend, Haji Wajihuddin, has put before this House this afternoon, I think there can be only one answer and that is that the considerations which led to the passing of the Bill outweighed any exceptional inconveniences that may be caused owing to exceptional family conditions.

Now, Sir, the last thing I have to say is this, that this Bill proposes that a certain community should be excepted. Now, if an exception were allowed for one community why should it not be allowed to others? If it is allowed for the Muslim community, why should it not be allowed for the Brahmins, who are very much more closely affected? It is essentially a general law justified on general grounds of social welfare and humanity.

Maulvi Muhammad Shafee Daoodi: I may tell the Honourable Member that the Muslim community did not require a law of this kind and the Hindu community did require it. We do not require it, that is our position.

The Honourable Sir Harry Haig: It may be the Honourable Member's position, but I understood the Honourable the Mover of this Bill to be justifying the practice of marriage of girls under the age of 14 in certain exceptional circumstances.

Khan Bahadur Haji Wajihuddin: On religious grounds.

The Honourable Sir Harry Haig: It is essentially a general law and it can not be treated in my view as a communal law. Once that position were accepted, the justification for the law would disappear, for the justification is that we are dealing with a question which affects the lives and welfare of all the people as human beings and not as members of one or other community. I will go further and say, it is only in that view of the matter that this Legislature has any right to intervene in this question at all. I think, Sir, I have made plain the reasons why the Government are not able to accept this motion.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I rise to make a request to the Chair. In view of the great feeling in the country regarding the Untouchability Bill which I find rather far down on the Agenda and in view of the brisk business that we have done today in regard to the two Bills, I request the Chair to enable us to get to the introduction of the Untouchability Bill by sitting till 6 or 7 O'clock.

Several Honourable Members: Nothing of the kind.

Raja Bahadur G. Krishnamachariar: It is not a fact that the country is in any way interested in this Anti-Untouchability Bill.

(At this stage there was continued jeering and shouting at the Honourable Member.)

I cannot understand why all this howling when I am meeting Mr. Ranga Iyer's request. What I beg respectfully to submit, in spite of the shouting that has been made against me, is that the country is absolutely in no way interested in this Anti-Untouchability Bill. The only persons, who are interested, are a few, whom I do not want to mention. I very strongly object to any special favour being shown to any Member, by sitting till 6 or 7 O'clock or till it pleases Mr. Ranga Iyer, to introduce the Bill and make the motion.

Mr. Chairman (Sir Hari Singh Gour): Order, order. At present the subject under discussion is Khan Bahadur Haji Wajihuddin's Bill. Sir Abdulla Suhrawardy.

Sir Abdulla-al-Mamūn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, I had no desire to intervene in this debate at such a late hour of the day, but I am compelled to do so, as I happen to illustrate in my person that paradox which my Honourable friend, Mr. C. C. Biswas, has attributed to my Honourable friend, Mr. Raju, who declared that he stood neither for heterodoxy nor for orthodoxy. Though, judged by my outward appearance, I am a heterodox, I stand here today as the champion of Mussalman orthodoxy.

I would not have intervened in the debate but for the most disappointing speech of the Honourable the Home Member. He talks about humanity, he looks upon the population of India as human beings not as Mussalmans or Hindus. I hope that he will continue to look upon the Mussalmans and Hindus as forming one homogeneous Indian nation, not as belonging to different communities but as children of one and the same country. When it suits his purpose, then India is a congeries of warring communities and of clashing and conflicting interests, and we hear all sorts of phrases like that and of pacts of minorities and majorities. He has different arguments and phrases for different occasions. Therefore, when it suited his purpose, all considerations of danger to the peace and happiness of the people were disregarded and, in the name of "humanity", the mischievous Sarda Act was passed, aided and abetted by the Europeans. Whether there was any political or moral justification for it at the time, I do not know, but on the present occasion the Honourable the present Home Member takes his stand on the moral ground of humanity apart from political considerations. He said: "The Mussalmans stand on a weaker ground than the Hindus, because, so far as the Hindus

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are concerned, it is a question of religion with the Brahmins, but so far as the Mussalmans are concerned, they can never claim that child marriage was enjoined by their religion". It is perfectly true that unlike the religion of the Hindus the religion of the Muslims does not enjoin child marriage. But what about polygamy? Polygamy is permitted, but not enjoined by the Law of Islam. Does the Honourable Member dare introduce a Bill in this House for the abolition of polygamy?

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): What the Turks and Egyptians do?

Sir Abdulla-al-Māmūn Suhrawardy: What the Turks do or what the Egyptians do is quite a different matter. The Turks are governed by Turks and the Egyptians by Egyptians. When you get the Swaraj of the Indian Mussalmans and Indian Muslims rule India introduce whatever law you like, but so long as you are ruled by the British and the Queen's Proclamation stands, you cannot do this. Our friend, Haji Wajihuddin, very rightly quoted passage after passage from the most masterly and illuminating speech of the Honourable the Leader of the House with reference to the Special Marriage Bill . . . (Interruptions.) This is the way in which Government favours the Mussalmans . . . (Interruptions.) I do not ask for any favour from Government and neither do I want my Mussalman friends to accept any favour from Government, to hang on the smiles of Government and wait in deputation on Government, specially my Muslim friends from the United Provinces, influenced and corrupted as they are by the teachings of a great centre of learning there, famous for its intensive inculcation of the doctrine of flattery and favouritism. My learned friend, the Home Member, hailing as he does from the United Provinces, should have known the depth of the feeling of opposition of the Mussalmans to the Sarda Act. Does he not know that in order to evade the operation of the Sarda Act, before the Bill became law, an *ex-Home* Member of the United Provinces entered into a conspiracy with the Chief Judge of the Oudh Chief Court and set a conspicuous example of child marriage . . .

Mr. K. Ahmed: Nothing of the kind.

Sir Abdulla-al-Māmūn Suhrawardy: I do not think that Mr. Kabeer-ud-Din Ahmed who has imposed upon himself perpetual childhood and is therefore perpetually restrained against marriage, condemned to perpetual celibacy, is the proper person to speak on this point.

Mr. K. Ahmed: My Honourable friend is rather out of order, and this portion, I submit, Sir, should be expunged from the proceedings.

Sir Cawasji Jehangir (Bombay City: Non-Muhammadan Urban): We cannot follow the speaker if this sort of interruption goes on.

Mr. Chairman (Sir Hari Singh Gour): Will the Honourable Member speak up?

Mr. K. Ahmed: And speak correctly to the point and without irrelevancy.

Sir Abdulla-al-Mámin Suhrawardy: I was referring to the point made by the Honourable the Home Member that the Muslims can never claim that child marriage was enjoined by their religion. I say that polygamy and many other practices are also not enjoined by our religion. *Muta* marriage, "companionate marriage", is now considered the best form of marriage even in certain parts of civilised Europe and America. Are those marriages tolerated on moral grounds by the conscience of Great Britain? Many things are not enjoined by Muslim law. My point is this: *Muta* is not enjoined by Muslim law: polygamy is not enjoined by Muslim law. The Koran, the Holy Book, on which the Muslim law is based, is very explicit, and it may be a matter for surprise to some that the Koran even recommends monogamy. The words of the Koran are: If a man wishes to marry, he may marry two, three or four, but not more; and if he cannot observe equity among his wives, then he must marry *one only*. So the recommendation is there in favour of monogamy, but polygamy is permitted. Similarly, child marriage is permitted and as has been repeatedly pointed out by my friend, the Mover, under special circumstances child marriage is a moral necessity: and the introduction of this Sarda Act interferes with many branches of the Muslim law: for example, the right of *Khayar-ul-Bulugh* which is well known to my friend the Honourable the Leader of the House. That itself shows that there is great difference between Muslim child marriage and Hindu child marriage; but my friend, the Home Member, says that the law must be uniform for the whole of humanity. Will my Honourable friend point out to me what the law of England itself was before the Sarda Act was introduced in this House? Was not the age of marriage for girls 12 and for boys 14? Nothing happened then to move the conscience of the Home Member. I do not know whether Diwan Bahadur Sarda is proud of his performance: but I do know that he does not wish the Act to be called after his name: more than once in this House and outside he has protested against my description of this Act as the Sarda Act. But I must do justice to him, because he never introduced the Act in a form applicable to Hindus and Muslims and Christians and all the population of India. He introduced his Bill for the Hindus alone and designated it the Hindu Child Marriage Restraint Bill—but the whole mischief has been done by the Government and by the Europeans, forgetful of the fact that India is a continent in itself. Can he point out to me, can any one of my European friends point out to me whether the same marriage law is applicable as regards the age of consent to the whole of Europe? Does it not differ on the Continent and in the various States of Europe and do not their marriage laws differ from that of England even today? Is India like the little island which you call Great Britain? In the North-West Frontier Province at the age of 14, a boy or a girl is more well developed than perhaps a boy or girl hailing from the South of India or the plains of Bengal at 20

Mr. Arthur Moore (Bengal: European): May I point out to my Honourable friend that as far as I can recollect, the recommendation changing it from a Bill solely applicable to Hindus was a recommendation of the Select Committee, not of a particular section of this House?

Sir Abdulla-al-Mámin Suhrawardy: They may have changed it in the Select Committee; but who dominated the Select Committee? I know that my European friends supported it and I know that the officials

[Sir Abdulla-al-Mámün Suhrawardy.]

supported it. Without their support, was it ever possible for the Bill to go through? We are in a minority in this House; everyone knows that. Even if all the Muslim Members solidly voted *en bloc* on a particular question, they are bound to be defeated: our total number is only 30, more or less, and our voting strength negligible. But what is our feeling outside? Some indication of it has been given by my friend, the Mover, in the course of his speech, and the Honourable the Home Member, who was the Honourable the Home Secretary when the Bill was enacted, may also know something about it. Maulana Muhammad Ali in 1929, and Maulana Kifayatullah, a gentleman with whose political activities I have no sympathy, but who certainly voiced the feeling of every Muslim on this question and many others condemned this measure. Does not the Honourable the Home Member know what happened in Peshawar and in other places? It was the Sarda Act which was responsible for so much trouble and bloodshed in the North-West Frontier Province

Mr. K. Ahmed: No, no.

Sir Abdulla-al-Mámün Suhrawardy: So long we have been silent; so long we have not agitated; we have not joined the civil disobedience movement

An Honourable Member: What has it got to do with this?

Sir Abdulla-al-Mámün Suhrawardy: We have not till now listened to the seductive music of the Congress and the Opposition

An Honourable Member: That was your mistake.

Sir Abdulla-al-Mámün Suhrawardy: We had been hoping that when this Bill will come up before the House, especially in view of the speeches of the Honourable the Law Member in which he clearly pointed out that interference with religion is not the present policy of Government, that our laws, religious and personal, will be respected and not interfered with. But today, judging from the speech of the Honourable the Home Member, we realise that we were hoping against hope. The Honourable the Home Member will soon know the consequences if he persists in his present attitude towards the Muslims.

An Honourable Member: They know it thoroughly well.

Sir Abdulla-al-Mámün Suhrawardy: They will know that it will soon unite Hindus and Muslims in a common cause of obstruction or destruction.

An Honourable Member: Is that a calamity?

Sir Abdulla-al-Mámün Suhrawardy: Instead of remaining neutral as on previous occasions, the Government have now taken the attitude of opposition to it, knowing full well that the Muslims are united over this question . . . (Interruption). Mr. Kabeer-ud-Din Ahmed seems to be the keeper of the conscience of the Government and of the conscience of the Honourable the Home Member

Mr. K. Ahmed: I understand the debate, if nobody else can understand.

Sir Abdulla-al-Mámún Suhrawardy: There are only one or two points which I want to submit to the House as regards the absurdity of this Bill. We are not at all discussing the merits of the Sarda Act, but, because it affects us, I feel compelled to say something about the merits of the Act. This is one of the absurdest pieces of legislation. I have never disguised my opposition to this Act, because it seeks to make a crime of what under the law of British India is a lawful act. The marriage does not become null and void. A girl of 13 is married to a lad of, say, 14 or 15, and the marriage is not void, but for that

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Government want money only; they are penniless now.

Sir Abdulla-al-Mámún Suhrawardy: You only make marriages more expensive and more difficult for people in a country where marriage is considered as a sort of religious necessity or sacred duty and not for a country where celibacy is the order of the day. After all, what suffering does it cause? Instances have been given by my friend, Khan Bahadur Haji Wajihuddin, in the course of his speech to show how if a widow on her death bed with a girl of 13, does not give her the protection of marriage, she is thrown adrift. What is she to do? Cast her adrift? Many *badmashes* will follow her, when she is deprived of the protection of her natural guardian. In the condition of this country, where there is no registration of births at all, how is it possible to find out whether a girl is really 13 years 11 months and 29 days, one month or one day short of 14, or whether a boy is under 16 or above 16. Shall we have the parties medically examined before marriage? The Honourable the Home Member knows it or he at least ought to know it that the Hindus and Muslims resent nothing more than any examination of that kind

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): The House may now adjourn. The House may now adjourn.

Sir Abdulla-al-Mámún Suhrawardy: Any unscrupulous person can within a year, on the deposit of only Rs. 100, bring into disgrace any respectable person he likes

An Honourable Member: The House may now adjourn.

Sir Abdulla-al-Mámún Suhrawardy: This is what has happened by the introduction of the Sarda Act. It might have pleased a Miss Mayo; it might have, to a certain extent, re-habilitated the Government of India in the eyes of the Americans, but so far as India is concerned, it has been an instrument of great oppression, tyranny and blackmail. If the Honourable the Home Member doubts it, he can find out that the name of my friend, Diwan Bahadur Sarda, has become more famous or infamous than even the name of Mahatma Gandhi. Ask any *chaprassi* or any person in the lowest stratum of Hindu society, and he will tell you what the real opinion in Hindu society is. It is not like the abolition of Sati. It is not like the Age of Consent Bill. You are making marriage itself a crime. Then, as I attempted to explain before, in legislating for the whole of India, which consists of so many provinces and Indian States, with Orissa and Sind clamouring for separation, and so on, you are going to have the same age for a whole continent.

Several Honourable Members: The House may now adjourn.

Sir Abdulla-al-Māmtūn Suhrawardy: I do not know if it is your intention to sit till 7 O'clock.

Mr. D. K. Lahiri Chaudhury: We do not want to sit till 7 O'clock.

Several Honourable Members: The debate may now be adjourned.

Mr. D. K. Lahiri Chaudhury: We can't go on like that.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, may I make a request?

Mr. Chairman (Sir Hari Singh Gour): Order, order: How long is the Honourable Member likely to take?

Sir Abdulla-al-Māmtūn Suhrawardy: I will take some time, at least an hour.

An Honourable Member: Why not adjourn till tomorrow.

Mr. Chairman (Sir Hari Singh Gour): The House will adjourn till tomorrow at Eleven of the Clock.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 28th February, 1933