

24th March, 1933

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

1933

FIFTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1933



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Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E. (Upto 7th March, 1933.)

THE HONOURABLE MR. R. K. SHANMUKHAM CHETTY. (From 14th March, 1933.)

Deputy President :

MR. R. K. SHANMUKHAM CHETTY, M.L.A. (Upto 13th March, 1933.)

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

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

SIR LESLIE HUDSON, KT., M.L.A.

SIR ABDULLA-AL-MAMÜN SUHRAWARDY, KT., M.L.A.

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MR. C. S. RANGA IYER, M.L.A.

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LEGISLATIVE ASSEMBLY.

Friday, 24th March, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

QUESTIONS AND ANSWERS.

TROOPS FROM BRITISH INDIA SENT TO THE ALWAR STATE.

907. ***Mr. Gaya Prasad Singh:** With reference to my starred question No. 712 of the 8th March, 1933, will Government kindly state whether troops from British India were sent to Alwar at the request of the State or not?

Mr. H. A. F. Metcalfe: Troops from British India were not sent to Alwar at the request of the State. They were sent under the orders of the Governor General in Council in fulfilment of the responsibilities of the Paramount Power for the peace and tranquillity of India as a whole as Government were satisfied that there was immediate danger of grave disorders and bloodshed unless the troops were despatched.

Mr. Gaya Prasad Singh: Are Government prepared to lay on the table of the House the correspondence which may have passed in connection with the sending of troops?

Mr. H. A. F. Metcalfe: I should like to know what correspondence the Honourable Member is referring to? I can certainly not lay on the table the correspondence between the Government of India and the Durbar if that is what he means.

Mr. Gaya Prasad Singh: My question was a general one,—the correspondence which may have passed in connection with the sending of troops. It may be either with any Local Government or otherwise.

Mr. H. A. F. Metcalfe: No, Sir. Such correspondence is confidential.

RULES FOR THE RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON THE EAST INDIAN RAILWAY.

908. ***Lieut.-Colonel Sir Henry Gidnev:** (a) Will Government be pleased to state whether the Agent of the East Indian Railway has, under the instructions of the Railway Board, issued a circular under the caption "Rules for the recruitment and training of subordinate staff" in October, 1932?

(b) If the answer to part (a) be in the affirmative, will Government please state whether they propose to publish these rules in the *East Indian Railway Gazette* for the information and guidance of the employees governed by these rules?

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

(b) I will convey the Honourable Member's suggestion to the Agent for consideration.

RULES FOR THE RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON THE EAST INDIAN RAILWAY.

909. ***Lieut.-Colonel Sir Henry Gidney:** (a) Is it a fact that in the revised rules for the recruitment and training of subordinate staff on the East Indian Railway it has been laid down that in each case of selection "a positive act of selection should be performed"?

(b) If the answer to part (a) be in the affirmative, will Government please state whether the official performing the "positive act of selection" will record in writing the specific reasons that led him to make this selection? If not, why not?

(c) Is it a fact that under these revised rules no appeal lies against any such "selection" made? If so, why?

(d) Do Government propose to revise this circular?

(e) Will Government please state what will be the criteria when making such selections?

(f) Will Government please state whether the method of promotion by selection will be applied in every case of promotion? If not, will Government please state the posts to which promotion will be made by this method of selection?

(g) Is it a fact that junior scale officers are also empowered to make such 'selections'?

Mr. P. R. Rau: (a) Under Rule 61 of the Rules, Selection Boards are required to make a definite act of selection after giving due weight to seniority and other relevant factors

(b) I understand that this is not done at present; but the question of requiring it to be done in future is being considered.

(c) I am informed that the rules do not debar the aggrieved party from appealing to the proper authority.

(d) No.

(e) The criterion is merit, due regard being given to seniority and all other relevant considerations.

(f) Promotion to selection posts only will be made by selection. Under the Rules framed by the Railway Board, it is left to the Agent to specify selection posts or selection grades in the cadre of each Department. The posts so specified in the East Indian Railway are :

(1) All Inspectors in the Transportation Department.

(2) Controllers.

(3) Assistant Running Shed Foreman, and

(4) Station Superintendents.

(3) The Rules provide for selection by Selection Boards and not by a single officer. The Agent has also the discretion to require the names of candidates selected by Divisional or District Selection Boards to be submitted for final selection to a Central Selection Board.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member kindly inform this House what exactly he means by the phrase "relevant factors"?

Mr. P. R. Rau: I am afraid I cannot define relevant factors. It is left to the discretion of the authority making the selection to consider what factors are relevant.

Lieut.-Colonel Sir Henry Gidney: In view of the Honourable Member's reply, will he inform this House why the word "relevant" finds such a specific place in the answer that he has given?

Mr. P. R. Rau: In order to exclude irrelevant factors. (Laughter.)

Lieut.-Colonel Sir Henry Gidney: That reply is merely a valve of negation. Will the Honourable Member kindly tell us what he really means by relevant factors? It is a very simple matter.

(No answer.)

Lieut.-Colonel Sir Henry Gidney: In view of the Honourable Member's reply that appeals can be made against these selections, will he inform this House whether it is permissible to any railway employee who feels himself aggrieved to appeal to the Railway Board? If the answer be in the affirmative, will the Honourable Member assure this House that the Railway Board will take action and not refer it to the Agent again with the stereotyped reply?

Mr. P. R. Rau: I am not surprised that my Honourable and gallant friend finds it difficult to distinguish between relevant and irrelevant matters. This question is one of the latter. (Laughter.)

Lieut.-Colonel Sir Henry Gidney: If the Honourable Member wants to be ambiguous and fictitious, I won't ask any more questions, but I want to know in all seriousness whether the employee has got the right of appeal to the Railway Board, and, if so, will the Railway Board take notice of it and not give the stereotyped reply that the matter is entirely one for the Agent to deal with and that it cannot or is not prepared to interfere?

Mr. P. R. Rau: I have said that the rules do not debar an aggrieved party from appealing to the proper authority. The question whether the Railway Board is the proper authority will depend upon the circumstances of each case.

Lieut.-Colonel Sir Henry Gidney: That is rather vague. Will the Honourable Member kindly tell us whether the Railway Board will attend to such appeal, or will it not?

Mr. P. E. Rau: If an appeal lies to the Railway Board, the Railway Board will give it its best consideration.

Lieut.-Colonel Sir Henry Gidney: In view of the Honourable Member's reply to part (g) of this question, is it or is it not a fact that these selections are always made by a selection committee and not on the recommendation of the senior departmental officer?

Mr. P. E. Rau: Selections are made by a selection board, but they would certainly take into consideration the recommendation of the officer concerned.

Lieut.-Colonel Sir Henry Gidney: Is it or is it not a fact that these selections are entirely dependent on the recommendation of the senior officer, or do they ever go against his recommendation?

Mr. P. E. Rau: I am afraid I cannot answer that question without taking a census of the decisions of these selection boards.

Lieut.-Colonel Sir Henry Gidney: Is that a relevant question?

Mr. P. E. Rau: I agree that is not a relevant question. (Laughter.)

Mr. Lalchand Navalrai: Will the Honourable Member kindly tell us if these selection boards are really doing useful work?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): That is asking for opinion.

Mr. Lalchand Navalrai: Will the Honourable Member kindly tell us whether the Railway Board has got power against these selection boards either by way of an appeal, or by way of revision, or superintendence?

Mr. P. E. Rau: I have already answered that question in reply to my Honourable and gallant friend.

Mr. Lalchand Navalrai: I did not follow the Honourable Member's answer.

Mr. P. E. Rau: I have already said in reply to a previous question that if the Railway Board is the proper authority in this matter the appeals when received will have due consideration.

Mr. Lalchand Navalrai: Who is the authority that will decide whether there is an appeal or not?

Mr. P. E. Rau: It depends upon the circumstances of each case. It must be obvious that the selection for the post of an Inspector in the Transportation Department will require a different procedure from that for the selection for a higher post.

Mr. Lalchand Navalrai: Who decides in the Railway Board whether there is an appeal or not?

Mr. S. C. Mitra: There are rules and regulations about appeals.

Mr. P. R. Rau: I think I can only say in reply to my Honourable friend's question that the Railway Board must be considered as one and indivisible.

Mr. M. Maswood Ahmad: Is there anything to show in what cases appeals ought to be sent to the Railway Board?

Mr. P. R. Rau: There are certain rules regarding appeals and memorials which, I believe, are in the Library of the House.

AMALGAMATION AND SEPARATION OF THE CADRES OF INSPECTORS OF RAILWAY MAIL SERVICE AND INSPECTORS OF POST OFFICES.

910. ***Mr. Muhammad Muazzam Sahib Bahadur:** (1) Will Government be pleased to state if it is a fact:

- (a) that the cadres of Inspectors of Railway Mail Service and general line men in the Posts and Telegraphs Department were distinct and separate until 1927 when they were amalgamated;
- (b) that they have again been separated from the 15th March, 1932;
- (c) that officials, who were originally Inspectors, were posted to work in the general line and *vice versa* during the short period when the two cadres came to be treated as one;
- (d) that Inspectors have to pass an examination before they are appointed as such;
- (e) that Inspectors posted in the general line have, during the short period of amalgamation, become mixed up with unpassed hands and continue to be so after separation;
- (f) that as a result of the separation in March, 1932, Inspectors placed in the general line are being denied the option of reverting as Inspectors?

(2) Are Government aware that Inspectors, who continue in the general line, feel aggrieved by the loss of status thereby caused and are they prepared to restore them to the cadre they were in before the amalgamation?

(3) Is it a fact that Messrs. Mangal Sain Jairu, Narsingh Das and Govind Pershad Tandan, Inspectors of the Railway Mail Service in the United Provinces Postal Circle, before the amalgamation, who happened to be in the general line on the 15th March, 1932, have been reverted to the Inspectors' line? If so, why is similar treatment denied to Inspectors in other Circles who happened to be working in the general line in March, 1932?

Sir Thomas Ryan: The points raised by the Honourable Member are being examined and a reply will be placed on the table in due course.

DEBT WHICH INDIA OWES TO OTHER NATIONS, INCLUDING GREAT BRITAIN.

911. ***Lala Rameshwar Prasad Bagla:** (a) Will Government please state the total amount of debt which India owes to other nations, including Great Britain?

(b) Is it not a fact that a very considerable part of this debt was borrowed by India to pay her share of the War-loan and to meet the huge expenditure incurred during the War?

(c) Are Government aware that the European countries represented by Great Britain and France have been continually crying for the cancellation of the War Debt and reparations?

(d) Will Government please state if they are conscious of the general feeling of dissatisfaction, which the non-cancellation or settlement in part of the debt taken by them in order to contribute towards the cost of the Great War has given rise to amongst the public?

(e) Will Government please say if they ever attempted to approach Great Britain or any other nation from whom India has borrowed large amounts of money during the War to cancel such war-debts?

(f) If the reply to part (e) be in the affirmative, will Government please lay on the table a copy of the entire correspondence exchanged on the subject?

(g) In case Government have made no efforts in this connection so far, are they prepared now to assure the House that they would start necessary negotiations at once?

The Honourable Sir George Schuster: (a) The exact meaning of the question is not clear, but I presume that the Honourable Member wishes to know the total of the Government of India's external obligations, although these cannot accurately be described as debts owed by India to other nations. For a full statement of the Government of India's external obligations I would refer the Honourable Member to Appendix II of the Financial Secretary's Memorandum issued with the budget papers. This shows loans £315·62 millions, War Contribution £16·72 millions, other obligations £47·98 millions.

(b) The only item in these obligations which falls within the terms of this part of the question is the item of £16·72 millions War Contribution which represents the capital value of the liability still outstanding in respect of that portion of the liability of the 5 per cent. British War Loan, 1929-47, which was taken over by the Government of India as part of their contribution of 100 millions towards the cost of the War.

(c) The facts are not as stated in the question.

(d) No.

(e) to (g). These questions seem to be based on a misapprehension of the position, because India was not forced like Great Britain to borrow large sums of money from other nations during the war. As regards the action taken recently by the Government of India, the attention of the Honourable Member is invited to paragraph 47 of my budget speech. The Honourable Member can rest assured that the Government of India is taking every possible step to ensure that India shall benefit from any arrangement that may be come to as regards war-debts, but the parties to such an arrangement must be mainly His Majesty's Government and the Government of the United States.

PRODUCTION OF PISTOLS AND REVOLVERS BY THE INDIAN OFFICERS OF THE GOVERNMENT OF INDIA AT THE NEW DELHI POLICE STATION.

912. *Mr. N. M. Joshi: (a) Is it a fact that Indian officers of the Government of India in possession of pistols and revolvers were asked by the Senior Superintendent of Police to produce them at the New Delhi Police Station?

(b) Were European officers of the Government of India served with a similar notice?

(c) What is the reason underlying the action referred to in part (a)? Are Government aware that it has created resentment among the Indian officers?

(d) Is it intended to deprive Indian officers of their pistols and revolvers?

The Honourable Sir Harry Haig: (a) The Senior Superintendent of Police, Delhi, issued orders under the authority of the District Magistrate, Delhi, to all Station House Officers in the Delhi Province to inspect arms and licenses of all licensees for revolvers and pistols once a quarter. This order was misinterpreted by the New Delhi Police into permission to ask licensees for revolvers and pistols to produce their weapons and licenses at the New Delhi Police Station. The Senior Superintendent of Police has since directed the New Delhi Police to carry out such inspections at the residences of license holders.

(b) No list of European license holders has so far been received by the Police from the Deputy Commissioner of Delhi but on its receipt it is intended that their licenses, pistols and revolvers will be inspected.

(c) The object of this inspection of licenses and revolvers and pistols is to exercise an effective check on the sale, exchange, or loss of such weapons and to prevent their falling into the hands of persons not authorised to possess them. No racial discrimination was intended, and, as I have explained none will be observed in future. I may add that I am taking up the question with the local authorities with a view to devising a procedure, which, while equally effective for the purpose of check, will be as little inconvenient as possible to the license holders.

Mr. N. M. Joshi: May I ask, if no racial discrimination was intended, why the officers were divided into two groups, Indian and European?

The Honourable Sir Harry Haig: I am afraid I cannot give definite information to my Honourable friend. It was a matter of office procedure in the office of the Deputy Commissioner of Delhi.

Mr. Gaya Prasad Singh: May I know if Indian officers were alone asked to produce their arms at the New Delhi Police Station?

The Honourable Sir Harry Haig: I have already answered that question in the affirmative and I have explained that as soon as the list of European license holders is complete, the same procedure would be observed in respect of them.

Mr. Gaya Prasad Singh: Will Government lay on the table a copy of the order of the Senior Superintendent of Police calling on Indian officers to produce their arms?

The Honourable Sir Harry Haig: No, Sir, I think that is unnecessary.

Mr. Gaya Prasad Singh: May I take it that the production of this order will reveal the fact that the Indian officers were being treated differently from European officers?

The Honourable Sir Harry Haig: I have already explained the facts in full detail.

Mr. S. C. Mitra: Who prepares the list? Why was one list made for Indian officers alone and at whose suggestion was this distinction made?

The Honourable Sir Harry Haig: I have said that that appears to be a matter of procedure in the office of the Deputy Commissioner.

Mr. B. Sitaramaraju: So far as the Government of India is concerned, may I understand that they did not make any racial discrimination in the orders?

The Honourable Sir Harry Haig: It has really nothing to do directly with the Government of India. I have merely answered this question, because the Administration of Delhi has no Legislative Council in which such questions can be put.

Mr. Gaya Prasad Singh: Do I understand that the Government of India have issued no instructions to the local authorities in connection with the production of arms?

The Honourable Sir Harry Haig: The Government of India addressed a general letter to Local Governments asking them to tighten up the procedure in regard to the inspection of revolvers and pistols. There was no question of racial discrimination intended in that.

Mr. Gaya Prasad Singh: Do I take it that that order of the Government of India is also confidential?

The Honourable Sir Harry Haig: Yes. Certainly the letter was confidential.

Mr. S. C. Mitra: Are Government of India in a position to say why a separate list was prepared for Indian officers and another list for European officers?

The Honourable Sir Harry Haig: I am not in a position to answer that.

Mr. Gaya Prasad Singh: Will the Government of India be pleased to call for an explanation from the local authorities as to why Indian officers were singled out for this sort of treatment and not the European officers?

The Honourable Sir Harry Haig: I have already said that the list of European license holders had not been prepared. As soon as it is prepared, they will be called upon to undergo the same procedure.

Mr. Gaya Prasad Singh: That is an afterthought.

REVISION OF THE SCALE OF PENSION OF PEONS IN BOMBAY.

913. ***Mr. N. M. Joshi:** (a) Have the Government of India received a petition from the Government Peons' Union, Bombay, for a revision in the scale of pension, applicable to menials in the offices of the Government of Bombay, so as to bring it into line with the other classes of Government servants?

(b) Are the Government of India aware of the fact that the Bombay Government have issued an order by their Finance Department Resolution No. 1906 in April, 1928, that the peons in their service who would retire after completing 30 years' service would get pension equal to half average emoluments?

(c) What do the Government of India propose to do in the matter?

The Honourable Sir George Schuster: (a), (b) and (c). I would refer the Honourable Member to the answer which I gave in the House on the 3rd March, 1933, to parts (a), (b) and (d) of starred question No. 628.

GRANT OF FACILITIES TO KHAN ABDUL GHAFFAR KHAN TO WORK FOR THE ABOLITION OF PROSTITUTION.

914. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that the Government of India granted certain facilities to Mahatma Gandhi to work for social reform in connection with the removal of untouchability?

(b) If so, are Government prepared to grant similar facilities to Khan Abdul Ghaffar Khan to work for social reform in connection with the abolition of prostitution?

The Honourable Sir Harry Haig: (a) I would refer the Honourable Member to my reply to short notice question on the 7th November, 1932. (b) No.

Mr. M. Maswood Ahmad: Will Government say why they are not prepared to give this facility to the Frontier Gandhi to work for the social reform of his province?

The Honourable Sir Harry Haig: Because it is not the practice of the Government of India to extend such facilities to State Prisoners in general.

Mr. M. Maswood Ahmad: May I take it that the Government of India gave this facility to Mr. Gandhi only?

The Honourable Sir Harry Haig: The Government of India distinguished between the original Mr. Gandhi and the Frontier Gandhi.

Mr. M. Maswood Ahmad: May I ask why Government are not prepared to give any facility to any Muslim leader to do the same things for the reform of their community?

The Honourable Sir Harry Maig: They are not prepared to extend this procedure to any other State Prisoner.

Mr. Amar Nath Dutt: Which is the greater evil—untouchability or prostitution?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): That is asking for an expression of opinion.

PREPARATION OF ESTABLISHMENT BILLS BY THE COMPUTING STAFF IN THE GOVERNMENT OF INDIA PRESS, SIMLA.

915. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that in Aligarh, Delhi and Calcutta Government of India Presses establishment bills are prepared by the accounts' branch? If so, why is the computing staff in the Simla Press compelled to prepare the bills in addition to their own duties? Is this work allotted to the accounts branch, according to handbook rules?

(b) Are Government aware that owing to the heavy work given to the computers they are compelled to work late at night, up to 10 or 11 P.M., without any remuneration?

(c) Why are additional hands not appointed?

The Honourable Sir Frank Noyce: (a) Government have no information as to the actual practice followed in the Presses. The reply to the last part is in the affirmative.

(b) No.

(c) No representation has been made by the head of the department.

ALLEGED GRIEVANCES AGAINST THE MUNICIPAL COMMITTEE, AJMER.

916. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah:** (a) Are Government aware that Colonel Howson, late Chairman of the Municipal Committee, Ajmer, made considerable improvement in all the departments of the said Municipality, specially in the Sanitary Department, during his Chairmanship?

(b) Are Government aware that during the Chairmanship of Colonel Howson, the members of the Municipal Committee, Ajmer, were obstructed in encroaching upon the functions and powers of the executive functionaries of the said Municipality?

(c) Are Government aware that a large number of questions on the subject of public grievances relating to the affairs of the Municipal Committee, Ajmer, has been asked in the Legislative Assembly since Colonel Howson relinquished the charge of its Chairmanship?

(d) Are Government aware that a large number of leaflets have been published on the subject of the mismanagement of the Municipal Committee, Ajmer?

(e) Is it a fact that a number of representations complaining against the Municipal Committee, Ajmer, has been made to the Commissioner, Ajmer-Merwara, since Colonel Howson relinquished the charge of its Chairmanship?

(f) Is it a fact that the Commissioner, Ajmer-Merwara, had not taken any action in regard to the public grievances concerning the Ajmer Municipality?

(g) Do Government propose to take any action in the matter? If so, what? If not, why not?

Mr. H. A. F. Metcalfe: With your permission, Sir, I propose to answer questions Nos. 916, 917 and 918, together. The information asked for has been called for and a reply will be laid on the table in due course.

NON-PAYMENT OF THE SALARIES OF SOME SWEEPERS OF THE MUNICIPAL COMMITTEE, AJMER.

†917. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah:** (a) Will Government please state whether it is a fact that some sweepers of the Municipal Committee, Ajmer, complained to its Chairman, that they had been deprived of their salaries by one of the functionaries of the said Municipality?

(b) Is it a fact that a resolution was passed by the said Municipal Committee or one of its Sub-Committees resolving to take action against the functionary referred to in part (a) above on the receipt of the report of the Thumb Impression Bureau as to the thumb-impressions against the names of the said sweepers on the pay bill?

(c) Is it a fact that the Chairman of the Municipal Committee, Ajmer, took no action on the report made by the Thumb Impression Bureau against the functionary referred to in part (a) above?

APPOINTMENT OF AN EXECUTIVE OFFICER IN THE MUNICIPAL COMMITTEE, AJMER.

†918. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah:** (a) Is it a fact that the Executive powers and functions of the Ajmer Municipality are exercised by the members of the Ajmer Municipal Committee in their respective Wards?

(b) Is it a fact that an Executive Officer has been recently appointed for the Ajmer Municipality on a high salary?

(c) Is it a fact that the said Executive Officer has not been invested with such powers as are possessed by the Executive Officers of the Municipalities in other provinces?

(d) Is it a fact that the said Executive Officer is virtually a mere ministerial functionary?

(e) Is it a fact that additional allowances have been recently sanctioned for the said Executive Officer?

(f) If what are stated at parts (a) to (e) above are facts, will Government please state what are the grounds for the creation and maintenance of the said Executive Officer's post in these hard days of economic distress?

† For answer to this question, see answer to question No. 916.

ALLEGATIONS AGAINST CERTAIN GOVERNMENT DEPARTMENTS OF AJMER-MERWARA.

919. ***Khan Bahadur Mukhdum Syed Rajan Bakhsh Shah:** (a) Are Government aware that there is a great deal of discontent among the middle and lower classes of the public in Ajmer-Merwara regarding the corruption, favouritism and nepotism prevailing in most of the Government Departments in that Province?

(b) Is it a fact that nearly all the responsible posts, excluding those filled in by the officers of All-India Services and military officers in civil employ, have been in the hands of the same persons for the last so many years?

(c) Will Government please state whether there is a general rule of administrative practice in every province in India to transfer an officer after every three years? If so, why is not the rule applied to the officers in Ajmer-Merwara who are retained in the same posts for many years?

(d) Is there a rule of public policy that a gazetted officer cannot be posted in that district in which his permanent residence is situated? If so, why are most of the gazetted posts in Ajmer-Merwara held by persons born, bred and permanently residing in the district?

(e) Do Government propose to place the Provincial service gazetted officers of Ajmer-Merwara on the cadres of some other Province, in order to facilitate periodical transfers of such officers and ensure wider range of experience and greater efficiency?

Mr. H. A. F. Metcalfe: (a) No. No complaints of this nature have come to the notice of the Local Administration.

(b), (c) and (d). With your permission, Sir, I propose to answer parts (b), (c) and (d) of the question together. Conditions in Ajmer-Merwara are special, since it is a small area with a very small cadre of posts. There are only six *Judicial* appointments of higher rank and three *Revenue*,

Transfers are made if they appear to be called for in the interests of the public service, but it is not considered that any advantage would accrue from fixing a period of tenure or from effecting periodic transfers regardless of other considerations.

(e) The answer is in the negative. So long as Ajmer-Merwara remain a separate administrative unit, the remedy suggested in the question is impracticable.

RESERVATION OF CERTAIN SQUARES FOR THE MIGRATORY STAFF OF THE GOVERNMENT OF INDIA.

920. ***Mr. B. N. Misra:** (a) Are Government aware that the Edward, Joffrey and many other squares are completely reserved for non-migratory staff?

(b) Are Government also aware that many of the migratory staff have often asked for quarters in one of these squares?

(c) Are Government prepared to reserve some of the quarters in Edward Square and others for the migratory staff of the Government of India also? If not, why not?

The Honourable Sir Frank Noyce: (a) The residential accommodation in the squares named and in certain other areas is largely reserved for the non-migratory staff.

(b) The reply is in the negative.

(c) No. The purpose of keeping the quarters of the non-migratory staff in separate groups is to avoid the isolation of tenants during the summer season and also to curtail the cost of conservancy and other services during that season.

REFUSAL OF PERMISSION TO MR. M. S. ANEY TO INTERVIEW MR. GANDHI IN JAIL.

921. *Mr. S. G. Jog: (a) Is it a fact that Mr. M. S. Aney, the acting-president of the Congress and an *ex-M. L. A.*, was refused permission to interview Mahatma Gandhi in jail at Yerrawada?

(b) If so, will Government state whether this action was taken by the jail authorities on their own responsibility?

(c) Will Government state whether the Government of Bombay or the Government of India were consulted in the matter?

(d) Will Government state the reasons for refusing permission?

The Honourable Sir Harry Haig: (a) Yes.

(b) to (d). No application was received either by the Government of India or the Government of Bombay from Mr. Aney asking for permission to interview Mr. Gandhi. He applied direct to the Superintendent of the Jail for interview, but did not state that it would be confined to the subject of untouchability. Permission was accordingly refused in view of the policy of Government in regard to interviews with Mr. Gandhi, stated in my reply to questions on the subject on the 7th and 14th November, 1932, and the 1st March, 1933.

Mr. S. C. Mitra: In refusing these interviews, do the jail authorities consult Local Governments or, in the case of State Prisoners, the Government of India?

The Honourable Sir Harry Haig: No, Sir. There are general instructions in accordance with which the Superintendent acted.

PROTECTION TO MOTOR BUSES AGAINST UNFAIR COMPETITION BY RAILWAYS, TRAMWAYS, ETC.

922. *Mr. G. Morgan: (a) Is it a fact that Government have received representations from the Motor Industries Association, Calcutta, for protection against unfair competition by railways, tramways and carts on (i) September 27th, 1932, to the Department of Industries and Labour, and (ii) November 17th, 1932, to the Department of Commerce?

(b) Is it a fact that no reply has been sent to these representations?

(c) Is it a fact that Government have deferred dealing with these representations pending the result of the Indian Railways Amendment Bill?

(d) Is it a fact that the motor industry contributes through special taxation in the forms of extra import duty, petrol tax, provincial taxes, registration fees, etc., approximately eight crores and thirty lakhs per annum (*vide* page 44 Mitchell-Kirkness Report)?

(e) Is it a fact that in addition to the above amount the motor industry also contributes further revenue through import duty on cloth, upholstery, materials, paints, lacquers, metals, glass, etc.; which are not specially identifiable with the classified headings of the motor industry?

(f) Is it a fact that the motor industry as well as firms and individuals operating motor vehicles are subject to all ordinary taxes in addition to those mentioned in parts (d) and (e)?

(g) Is it a fact that railways, tramways and carts do not make any direct contribution to the central revenues other than the taxes mentioned in part (f)?

(h) Are Government aware that in the province of Madras the number of motor buses has fallen—coincidentally with the increase in taxation—from 6101 to 1935 (*vide* page 19 Madras Section Mitchell-Kirkness Report)?

(i) Are Government aware that in Bengal numbers of motor lorries have been laid up to avoid taxation, as on account of that taxation they can no longer pay their way in competition with buffalo and bullock carts?

(j) Have Government considered the representations mentioned in relation to the facts detailed in parts (d) to (i) and have Government arrived at any decision in the matter?

The Honourable Sir Frank Noyce: (a) Yes.

(b) The receipt of these communications was acknowledged.

(c) No.

(d) and (h). Government have noted the figures contained in the report referred to and are examining them.

(e) The position is generally as stated in this question.

(f) Government are not aware of the precise meaning of the phrase "ordinary taxes". No special exemption from taxation applies so far as they are aware to the motor industry or to firms or individuals operating motor vehicles.

(g) Railways contribute to general revenues on the basis of one per cent. of the capital at charge and in the form of import duty under the Tariff on rolling stock and materials imported. Similarly, tramways contribute in the form of import duty on stock and materials imported. Under the provisions of the scheduled Taxes Rules, the taxing of animals and vehicles is within the competence of Local Legislatures, and these do not contribute directly to central revenues.

(i) Government have no information.

(j) The representations referred to have been taken into consideration by Government in the examination of the whole question upon which they are engaged.

Dr. Ziauddin Ahmad: The Honourable Member said that the railways pay one per cent. of the capital at charge. Are they actually paying it, and, if not, for how many years have they not paid it?

The Honourable Sir Joseph Bhoré: My Honourable friend is no doubt aware of the facts of the case.

Mr. F. E. James: Will the proposed Rail-Road Conference in Simla be competent to discuss the question of co-ordination and standardization of taxation of motor vehicles and other users of public roads in the provinces?

The Honourable Sir Frank Noyce: We hope, Sir, that the Conference will be able to deal with all the aspects of this question.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member please inform the House whether it is a fact that crores of money are invested in this motor industry (road transport), and that nearly 150,000 people are employed, who, if the industry is received, will be unemployed, and whether the taking away of this motor industry by the railways will not transfer that industry from the public to the State? The next question I would like to ask . . .

The Honourable Sir Frank Noyce: May I rise to a point of order? May I suggest that the Honourable Member should put his questions one by one?

Lieut.-Colonel Sir Henry Gidney: My one desire was to facilitate the Honourable Member's task. Will the Honourable Member please inform this House whether or not it is a fact that crores of rupees are invested in this motor transport industry?

The Honourable Sir Frank Noyce: I am not aware of the exact amount which has been invested in the motor industry,—but I should like to point out to the House that crores of public money have been invested in the Indian Railways. (Hear, hear.)

Lieut.-Colonel Sir Henry Gidney: Is the Honourable Member aware of the amounts placed before him in the memorials sent to him by the memorialists on behalf of the Motor Transport Association?

The Honourable Sir Frank Noyce: I am not prepared to accept the accuracy of any statement of this kind. Even the closest examination could give no more than an approximate estimate.

Lieut.-Colonel Sir Henry Gidney: In view of the Honourable Member's reply, will he inform this House whether or not it is a fact that by the Railways taking over this motor transport industry, they will be violating a Home Department, Government of India, Order, (applied mainly to jails) issued a few years ago, in that they will be unfairly competing with local industries?

The Honourable Sir Frank Noyce: It is, Sir, news and very astonishing news to me that the railways have any intention of taking over the whole of the motor industry.

Lieut.-Colonel Sir Henry Gidney: I am glad to hear that, but that does not answer my question.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

(AMENDMENT OF SECTION 51.)

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Joseph Bhoré (Member for Commerce and Railways): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Railways Act, 1890, for a certain purpose.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the following motion moved by Khan Bahadur Haji Wajihuddin on the 27th February, 1938:

"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 Abdulla-al-Mámin Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, in reply to a question from the Chair when I was addressing this House on the previous occasion, I informed him that I would take at least another hour. (*Voices*: "Speak up.") But now, owing to the long interval between the day when I was last addressing the House and today which gave me ample leisure for studying the subject from all points of view, I find that my statement that I would take only one hour or so was an under-estimate. If one is to do justice to the subject fully in all its bearings,—political, legal, moral and social,—Sir, it will be a question not of an hour or even of a day or a week, but one might have to speak for days and weeks and months (*Hear, hear*) in order to convince the House of the iniquity and injustice and the folly of the measure. But my friends need not be alarmed. If they have patience, if they do not interrupt me, I think their object will be served. Sir, I have read the comments in the newspapers to the effect that I was in concert and conspiracy with Government, determined to prolong my speech in order to defeat the introduction of the Untouchability Bill, although I might at once say that though I am, of course, opposed to the introduction of any legislative measure which would interfere with the religious and social liberty, customs and usages of the people of India, Sir, I would be the last person to be in concert and conspiracy with Government or with Orthodoxy to block the introduction of any measure for the uplift of the untouchables. I am always for delivering a frontal attack,—not a flanking movement or a camouflage. If necessary, I would oppose the Untouchability Bill openly and not by means of underhand methods or silly, long speeches. Here I must at once disclaim any association with the Leader of the Orthodox Party, my esteemed and venerable friend, Raja Bahadur Krishnamachariar, or any association with my Honourable and esteemed friend, Sir Hari Singh Gour.

The Honourable Sir Harry Haig (Home Member): Does the Honourable Member in any way suggest that the Government are seeking to obstruct the introduction of the Untouchability Bill, and, if not, will he kindly withdraw his insinuation?

Sir Abdulla-al-Mámún Suhrawardy: The Honourable Member has possibly misunderstood what I was trying to say. It is an insinuation not made by me, but in certain newspapers. I should be the last person to make insinuations against the Government attitude towards the Untouchability Bill. I am simply trying to meet insinuations made in certain quarters to the effect that when I spoke here I spoke in the interests of Government in order to block the introduction of that Bill. My position in the House and the allocation of my seat is not of my seeking. It is a matter of mere accident and of circumstances over which I had no control. If I had been subservient to the Government or to the orthodox people, my place today would have been perhaps nearer the Chair and Mr. Ranga Iyer's than it is today. (Hear, hear.)

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammandan Rural): I hope, Sir, that the same answer applies to any supposed association with me or to any conspiracy that I was supposed to have had in order to obstruct the introduction of this Bill. Surely, it is a suggestion which, if it is not unparliamentary, I would certainly call wicked.

Sir Abdulla-al-Mámún Suhrawardy: I am not making any suggestions at all. I am merely referring to certain wicked suggestions in the press. So far as my Honourable friend, the Raja Bahadur, is concerned, at any rate, judging from appearances, the fact that my Honourable friend, Rao Bahadur Rajah, the great sufferer from untouchability and the champion and protagonist of the cause of untouchability, sits behind him shows that the Raja Bahadur must be a champion of the cause of the untouchables. I would now return to the main subject instead of digressing from it as I am as anxious as any Member of the House to be as brief as possible.

I would like the House to bear with me calmly and dispassionately for a few moments, because that is the best way of helping me to be as brief as possible. There seems to be a good deal of confusion in the minds of Members of the House especially those who are new Members that it is out of mere cursedness or fanaticism that I have stood up here to support the measure. My presence in the House itself on the last occasion was a mere accident. I was not in the House at all, but when appealed to by my friend, the Mover of the Bill, I came in and entered the Chamber in the afternoon. And when I spoke on the last occasion, my intervention in the debate was provoked by the speech of the Honourable the Home Member. I do not mean to say that his speech was provocative in any sense at all, but what I do mean to say is that when he mentioned to the House the attitude of Government on the subject, I felt that I should get up and place the Muslim point of view before the House as clearly and as forcibly as I could. So far as the Honourable the Home Member is concerned, I know that he did not speak in his personal capacity, but he spoke as a spokesman of Government. Although in the press it has been mentioned that he smiled when I spoke, from my place it is not possible for me to know whether he smiled or laughed or whether he shed a tear, but I do know that he always wears a winning smile and I do not for a moment believe that his smile, if he actually did smile, was a smile of contempt or derision; or if he laughed, it was a laugh of levity. I have since had the advantage of reading his speech in print and I find nothing provocative in his speech except that the arguments which he put forward are the arguments which do not

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appeal to me. I wish he had read the masterly speech of his colleague, the Law Member, which he delivered while dealing with the Special Marriage Act. Then he would have known that we Muslims are perfectly justified in looking upon this measure as an interference with our religion and personal law. Anybody who has any knowledge of the Muslim law at all or of the law of the country could not have the slightest hesitation in believing that that is so. I will read only one passage from the masterly and illuminating speech of the Honourable the Law Member, the Leader of the House, who has been fitly described by my Honourable friend, Khan Bahadur Haji Wajihuddin, as Allama Sir Brojendra Mitter. Certainly he deserves the title of Allama from the University of Muslim Public Opinion. Speaking on the Special Marriage (Amendment) Bill, he said :

" I am frankly opposed to this measure. I am speaking not merely on behalf of the Government but as a lawyer, and I shall presently examine this Bill from the legal standpoint. Sir, the policy which the Government have always adopted with regard to social legislation was stated in these terms by the Honourable Mr. Jenkins when Mr. Bhupendra Nath Basu's Bill was before the Legislature :

' It is a 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 '."

Even assuming for the sake of argument that this is not a matter of religion, yet it is a departure from the fixed principle of the Government of India not to interfere in any way with the personal law and customs of the Muslims. There is no evidence whatsoever, not to speak of very strong and conclusive evidence, that the change is desired by those who are affected. What evidence has my Honourable friend, the Home Member, that the change is desired by the people who are affected by it? In the same masterly speech, the Honourable Sir Brojendra Mitter goes on to say in another part :

" I am not discussing the Sarda Act at the moment ; I am discussing Sir Hari Singh Gour's Bill. Sir, as I said before, the Moslems 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 the Moslems will be affected by this measure. I shall take the subjects of Marriage, Dower, Divorce, Legitimacy, Inheritance, Guardianship, Maintenance and Wakf. I shall take these eight branches of Muhammadan law, all essential. "

It is very easy to say for a lay Member that this is a social legislation. But if you go deep into the matter, you will see that the Sarda Act also affects not only the marriage law of the Muslims, but the law of dower, legitimacy and directly the law of guardianship and many other branches of the Muslim law. This Act has struck at the root of our personal law and yet to you it appears to be a simple measure. You seem to be only fixing the age-limit of 14 or 18 for marriage. I will presently place before the House, especially for the benefit of European Members, certain facts. Although the European Benches are empty, I am glad that the Leader of the European Group is in his seat, because, I owe it to my community, owe it to myself and owe it to the Government Members that I should place before them briefly but as clearly as possible my reasons for opposing the Sarda Act in the sense that we must be given an exemption from the operation of this Act. For that purpose it would be necessary for me to place before the House first of all the Sarda Act itself so that the House may know what this Act is.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Rural): This is merely a motion for circulation.

Sir Abdulla-al-Mámûn Suhrawardy: I know that it is a motion for circulation, but it is a motion for the circulation of a Bill which is opposed to an Act from the operation of which we claim exemption and I propose to give reasons why we claim that exemption. This is a simple measure no doubt. I am grateful to the Honourable the Deputy Leader of the Independent Party for his interruption that this Bill is merely for circulation, yet what has the Honourable the Home Member said on it speaking as a spokesman of the Government? He opposed the circulation of this Bill. It cannot be construed as a dilatory motion from our point of view which he must oppose, nor can he stifle the expression of Muslim public opinion by his opposition. Although my sympathies are with the Honourable Khan Bahadur Haji Wajihuddin, the Mover of the Bill, and although as a result of my personal relations with him I might even record my vote if the matter is pressed to a division, I certainly personally do not see any special advantage in the motion before the House. What is the use for the circulation of the Bill to elicit public opinion thereon, because the Government of India know very well what public opinion on that question is unless like an ostrich they want to close their eyes and refuse to know what is going on in the country? On petty occasions Government always claim that they have in their possession Muslim opinion, they claim to know or to have ascertained what is acceptable to the Muslims and what is unacceptable to the Muslims, and they certainly have the means of finding out what the Muslim opinion on the Sarda Act is. And if they have not, they can ascertain that opinion not by means of secret whisperings into their ears in the secrecy of their private chamber or the conclave of the Cabinet, not by means of the secret ballot box, but by open voting on the floor of this House. There is Maulvi Shufee Daoodi, the Secretary of the Muslim Conference, who has spoken on the motion; there is Sir Muhammad Yakub, the Secretary of the Muslim League who also has spoken on it. Those are gentlemen whose opinions and views are considered and given due weight when it is a question of joint or separate electorate, weightage or non-weightage and other important and unimportant matters. These gentlemen have, on the floor of this House, expressed their own views and the views of the Muslims in support of the measure. Why should not Government give due weight to their opinion now and support the circulation of the Bill for eliciting public opinion?

The Sarda Bill was originally designed to be applicable to Hindus alone, but when it emerged from the Select Committee, it became applicable to Hindus, Muslims, Buddhists, Christians and the rest, and what was a civil Bill became a criminal Bill. I do not know why it is necessary to circulate this Bill unless the Honourable the Mover thinks that Government should go through the formality of getting public opinion. For, even without circulation, Government ought to know that men, highly cultured and highly educated, men who had the benefit of education in the universities of Oxford and Cambridge and Maulvis and Maulanas, educated at Deoband and at Delhi, the humblest soldier and tiller of the soil, the richest landlord rolling in wealth are all amongst the Muslims opposed to the Sarda Act. Of course there may be a few black sheep,—there are black sheep in every community,—may be one or two black sheep even in this House representing the black sheep outside, but the majority and the bulk of Muslim opinion is against the Sarda Act. Diwan Bahadur

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Sarda himself knows that very well and he does not want the Act to be described as the Sarda Act. Whenever it is described as the Sarda Act, he becomes nervous and he protests. Sir, I will place before you first of all what are the provisions of this Act, specially for the benefit of my European friends who may think that here is a retrograde standing up and championing the cause of child marriage. It is nothing of the sort. Although I will not be ashamed of being regarded as a retrograde in my championship of the laws of Islam, thank God, Allah be praised, that it is not one of my weaknesses to be regarded as an enlightened and cultured Mussalman who has no faith in the divine origin of the Shariat. It is not necessary for me, specially when I have got in the person of the Leader of the House a gentleman well-versed in Muslim law, to say that the foundations of the Muslim law, the law of marriage and the law of inheritance and all those laws which have been guaranteed by British Government and by the Proclamation of the Queen herself are of divine origin. And any text-book of Muslim law will tell you, even the small book of Mulla will tell you, that the primary sources of Muslim law are the Koran and the Sunnat. Yet there are gentlemen who get up in this House and tell us that this is not trenching upon our religion or upon our religious law. This is how the Sarda Act reads :

“ 2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) ‘ child ’ means a person who, if a male, is under 18 years of age, and if a female, is under 14 years of age ;
- (b) ‘ child marriage ’ means a marriage to which either of the contracting parties is a child ;
- (c) ‘ contracting party ’ to a marriage means either of the parties whose marriage is thereby solemnised ; and
- (d) ‘ minor ’ means a person of either sex who is under eighteen years of age.

3. Whoever, being a male above eighteen years of age and below twenty-one, contracts a child marriage shall be punishable with fine which may extend to one thousand rupees.

4. Whoever, being a male above 21 years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

5. Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both”, etc.

I will not go through the further details of the Act. All that I wish to point out is this that the age fixed here is 18 years for the male and 14 years for the female and the parties to a child marriage or those who perform, conduct or direct the marriage are punishable with simple imprisonment for one month or with fine which may extend to a thousand rupees or with both. This is the famous Sarda Act which I will describe as infamous. But what is the English law on the subject? We are all trying to become civilised; we are aping the Western people in everything although even among my Muslim friends, who claim to be enlightened, we still find gentlemen who up till now have not allowed the sun and the moon to penetrate into their zenanas. They keep their women in what may appear to our European friends as “the dark dungeons of the Zenana” and yet come here and pretend to be enlightened gentlemen who would like the age of marriage to be fixed at 18 in order to be abreast of the advanced societies of the West. In an age when Western women are

struggling to be emancipated from the bondage and trammels of superfluous clothing you still see Muslim women being confined in what Europeans describe as "the dark dungeons of the zenana or masquerading in the hideous *burkha* like so many apparitions and spectres from the nether regions". These are enlightened gentlemen and the Home Member has only to look around and he will find them not far from himself. And our European friends, who dared to interfere with the marriage laws of the Muslims, have not dared to give their moral support to the crusade against *pardah* by boycotting all social intercourse with those gentlemen who confine their wives and daughters within the pale of the zenana. Mere social boycott would have been enough; they have not the courage to do that. Yet they come here and ask us to support the Sarda Act and say that this is a measure which has been introduced in the interests of humanity. If medical opinion is to be consulted, you will find medical opinion also saying that one of the causes of tuberculosis is "the dark dungeon of the zenana".

Mr. C. C. Biswas (Calcutta: Non-Muhammadian Rural): Are you or are you not against *pardah*?

Sir Abdulla-al-Mámûn Suhrawardy: I am standing here as the champion of orthodoxy. My friend, Mr. Biswas, the other day applied to me the correct description of myself, namely, paradox. Whatever be my own personal feelings, whether I am supporter of the *pardah* or whether I am against it, I am standing here to champion the cause of orthodoxy and I will always stand for the cause of truth. I am standing here for the cause of orthodoxy, not because the orthodox people are strong and powerful

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): You do not look like an orthodox person.

Sir Abdulla-al-Mámûn Suhrawardy: That is the paradox, that though I do not look an orthodox person, yet I champion the cause of orthodoxy, because my faith and belief in my religion and the divine origin of my religion and of my law is so firm that if I had the time, I believe, I would even convince this House of the reasonableness of the Moslem Law of marriage and every branch of Moslem Law.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Did the Honourable Member insinuate that the reformers have not the same regard for religion?

Sir Abdulla-al-Mámûn Suhrawardy: Well, that is a matter for the Pandits of their religion to pronounce. If the reformers have got the same faith in their religion, they are entitled to that faith. I have got faith in my religion and I want to show the reasonableness of Muslim religion and Muslim Law. Our law does not enjoin, as the Honourable the Home Member rightly said, child marriage, but our law does not interdict or prohibit child marriage. I was trying to read out the English Act, so that the difference between the English Act and the Sarda Act may become clear to our European friends:

"An Act to make void marriages between persons either of whom is under the age of sixteen."

[Sir Abdulla-al-Mámün Suhrawardy.]

What have you prevented; have you prevented child marriage? Our friends talk about sufferings of the widows, as if the Sarda Act has in any way alleviated early widowhood or the sufferings of the widows. The marriage of children you declare to be as valid as before the passing of the Sarda Act. All that you do is to make marriage more expensive and make it an engine of tyranny and of oppression, where unscrupulous people desire to blackmail or a disappointed suitor wishes to blackmail or to avenge himself.

Mr. C. C. Biswas: What is the year of the English Act?

Sir Abdulla-al-Mámün Suhrawardy: The year of the English Act is 1929. The English Act was inspired by the same lady as I said on a former occasion who inspired the Sarda Act which made the British legislator's dormant conscience to wake up suddenly. They thought that in India we were going to pass an Act stamped by Miss. Mayo of "Mother India" into legislative action and that was a challenge to them at least to wake up and to bring their age of marriage which had for centuries been 14 for males and 12 for females to 16. Even then, they fell short of the Sarda Act. Under the English Act, the age is 16, whereas my Honourable friend, Diwan Bahadur Harbilas Sarda, has raised the age to 18. In a tropical country, where people, if they are born early, they also die early,—we develop soon and we wither and fade away soon—the age of marriage has been raised for males up to 18, whereas the English Act leaves it at 16.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Chair does not want to interrupt the Honourable Member in his speech, but it is perhaps proper that the Chair should draw the attention of the House to the scope of a discussion when the motion before the House is that the Bill be circulated for public opinion. The exact scope of discussion on such a motion has been very clearly defined in a great many rulings which have been previously given by the Chair. On the 24th March, a Member proceeded to discuss the details of clauses on the motion to circulate a Bill and the Chair ruled as follows:

"I cannot allow the Honourable Member to go into such detail. This is a motion for circulating a Bill, and I agree with the Honourable the Home Member that it is a little difficult to find out the precise principle on which the Bill is based. Nonetheless he must address himself to larger considerations than the actual details. The subject he is dealing with would be precisely the same if the question I put was that the clause stand part of the Bill. We have not reached that stage yet."

Later, on the 2nd June, 1924, on a similar occasion, the Chair intervened and said:

"I would remind the Honourable Member and the House that the question that is being debated at present is only the narrow question whether the Bill should be taken into consideration now or whether it should be circulated for opinion. It is not open, therefore, to Members to go into the merits of the various points which they may wish to be further considered. They can merely indicate the points on which they think there should be further consideration by the country."

There are a series of rulings which have clearly laid down that on a motion for circulation Honourable Members cannot go into the details of the Bill, and the Chair would appeal to Honourable Members to observe this well established convention and rule in the discussion today also.

Sir Abdulla-al-Mámún Suhrawardy: I shall try as best as I can to follow the spirit of the ruling of the Chair. I was trying to point out the difference between the two Acts and I think, I need not enter into the details. I want only to point out that the English Act adopts the age as 16. The authors of the Act feel that the consequential effect of the raising of the age from 12 for females and 14 for males which had been in existence for centuries and centuries would be to affect the law of bastardy and legitimation and other branches of the English law. Instead of entering into details, I merely quote 2 sections of the Act for the benefit of the House. Section I, clause (2) runs as follows:

“ Nothing in this Act shall affect—

(a) any marriage solemnized or contracted before the passing of this Act, and any such marriage shall be or become valid in any case where, if this Act had not been passed, it would be or become valid, or

(b) in Scotland any right or capacity of legitimation *per subsequens matrimonium*.”

Section 2 embodies the consequential amendment of 35 and 36 Vict. c. 65 and runs as follows:

“ A single woman who has been delivered of a child may, upon proof that before the birth she was a party to what but for the passing of this Act would have been a valid marriage and that the other party thereto had access to her within twelve months before the birth of the child, make at any time an application under section three of the Bastardy Laws Amendment Act, 1872, for a summons to be served on that party, notwithstanding that he may not within the twelve months next after the birth of the child have paid money for its maintenance. ”

I am simply referring to these sections to show that the law of bastardy had also to be changed. I am simply drawing the attention of the House to the fact that the raising of the age from 14 to 16 had that effect so far as the English Act itself was concerned. So far as the Indian Act is concerned, we had no age limit in India. When I had said that it was Miss. Mayo who had stampeded Diwan Bahadur Harbilas Sarda or the Government into action, it was a mere conjecture on my part. But I am glad to find myself fortified in my conjecture by the speech in the House of Lords of Lord Buckmaster, where he refers to Miss. Mayo and the great excitement caused in England by the publication of that wonderful book.

Sir, I would now ask my Muslim friends no longer to be dupes of to-morrow. They ought to know that the Honourable the Home Member, having opposed the motion for circulation, the result would be the same even if my Honourable friend, the Mover, pressed it to a division or not. The Muslim community knows that no mere promise of the operation

12 Noon. of the Act being softened by executive directions will suffice, if it is a matter of conscience with them: whether it operates harshly or whether it does not operate harshly, it is all the same. It was said by certain gentlemen that in the North-West Frontier Province there was no case of early marriage, at any rate early marriages were not frequent there; yet, when the law was passed, a great deal of excitement and a great deal of ferment was caused in that province. Certain gentlemen also spoke in such a way as if they were Abu Hanifas or Abu Yusufs of Islam or as if they were modern Manus and Yajnavalkyas of the Hindus. These are the gentlemen who said that India is now advancing and in India the Muslim law must progress. But they forget that even the highest judicial authorities have laid it down clearly in their decisions

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that no lawyer, however clever he may be, however eminent he may be, so far as his position in life is concerned, can be allowed to interpret the Muslim Law according to his own ideas. I have here a copy of the latest edition of Mulla where he says:

"The Courts, in administering Muhammadan Law, should not, as a rule, attempt to put their own construction on the Koran in opposition to the express ruling of Muhammadan commentators of great antiquity and high authority."

Again, Mulla lays down at page 14, section 27 (9th edition) of his book:

"New rules of law are not to be introduced, because they seem to lawyers of the present day to follow logically from ancient texts however authoritative, when the ancient doctors of the law have not themselves drawn those conclusions."

When that is the state of affairs, it will not do for Sir Harry Haig and others to get up and say that this is the law and that, in the light of modern conditions, Muslim Law should be modified when the highest judicial tribunal in the Empire has laid down that the interpretation of modern lawyers, however clever they may be,—the reference is to the Right Honourable Ameer Ali and Mr. Justice Mahmood—ought not to be accepted when it is in conflict with the views of the ancient law-givers.

Now, Sir, as I am anxious to be brief, I will simply take the speech of the Honourable the Home Member and meet some of his points advanced by him. He said that no attention had been directed in the speeches to the causes which led to the passing of the Sarda Act. What are the causes, he did not care to state; but I have stated myself that one of the potent causes for the Government supporting the Sarda Act was the publication of the "Mother India". If "Mother India" should be the cause of the passing of the Sarda Act, I do not know what "Father India" would be the cause of—perhaps it would be the father of the Untouchability Bill or of Bills for the destruction of some cherished institutions of the Hindus and if the publication of a single book by an American lady would be one of the potent causes for the passage of an Act of far-reaching consequences like the Sarda Act, I do not know whether the publication of "Uncle Sham" would also not modify the laws of America, if not of India. Then he said that 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 might have been believed, but now the question is whether it has succeeded in arresting what was believed to be a serious social evil. The immediate effect of the passage of the Act was that thousands and thousands of girls and boys under the ages of 14 and 18 were married *en masse* and I believe children have to be born in order to be married in defiance of the Sarda Act. These are the first fruits of the passage of the Sarda Act. Then, he says, it is to alleviate human suffering and to promote the welfare of the race. Here also the Honourable the Home Member did not enlighten us as to what he meant by human suffering—whether it was the suffering of child birth of girls under that age or the suffering of boys under the age of 18. I do not know in what way boys suffer if they are allowed to marry below the age of eighteen; and, if it is a question of the deterioration of the race or the welfare of the race, I should like the Honourable the Home Member to introduce a Bill punishing fornication and adultery; whereas the doors of people belonging to the oldest profession in the world are wide open in a most inviting way welcoming immature youths who may suffer all their lives

from infectious venereal diseases and later infect their wives and be the fathers of rickety weaklings. I am just going to point out to the House the absurdity of the Act. The Act prohibits the marriage on the ground of humanity, I am told, because the Honourable the Home Member says, in order to alleviate human suffering and promote the welfare of the race. How is the welfare of the race promoted, so far as boys are concerned, if they yield to the imperiousness of male desires and are driven to have recourse to places of ill-fame and catch venereal diseases? How is their health and their physique affected? Do they not communicate the disease afterwards when they are married after the age of 18 to their unfortunate wives with the result that puny children are born? It is absurd to say that for the physical welfare of the people this is necessary. I will not enter into further details, because, if I were to do so, I could point out how Sivaji was the product of child marriage, how Akbar and Babar and even Shah Jehan, not to speak of the Black Prince of England, were the offsprings child marriage. It is absurd to say that physical deterioration is due to child marriage. It is due to other causes. If so much importance is given to that book of Miss Mayo, that estimable lady, whom I have the honour of knowing personally, why not take measures to ameliorate the social conditions of the people all over India? I mean the appalling illiteracy and poverty of the masses. What steps have been taken by Government to remove the illiteracy and ignorance of the people, the epidemics and diseases and the corroding poverty of the people which is largely responsible for mortality? I cannot understand the arguments of people who on the one hand say that in the interests of humanity they are supporting the Sarda Act and, on the other hand, they are most callous and most inhuman where humane considerations are absolutely necessary.

Then, my friend, the Home Member, said that the Muslims never claimed that child marriage was not enjoined upon them by Muslim Law. That is perfectly true. Nor is the cow slaughter enjoined upon us by Muslim Law. Here I want to explain to the House the Muslim point of view. If the majority of Hindus will thrust upon us their point of view and pass a law, because it is acceptable to them, in spite of the fact that it is opposed to Muslim sentiment and Muslim opinion, what will prevent tomorrow some friend of the cow getting up here and introducing a Bill saying that cow slaughter must be stopped? Measures like that are introduced in municipalities, and similar measures might be introduced in this House as well, and the argument may be advanced to the effect that Muslim Law does not enjoin on us the slaughter of the cow. It is true that Muslim Law does not enjoin the cow slaughter, but, at the same time, it is not against the slaughter of the cow. Child marriage is exactly in the same position as the sacrifice of the cow. And, therefore, in these days when our European friends are talking of safeguards, when they are so solicitous of safeguards, and when our orthodox Hindu friends also wait in deputations on His Excellency the Viceroy and ask for religious safeguards, the Muslims too rightly, in view of the attitude of the Government towards this Act, ask what would be their religious safeguard so far as this law is concerned. That is one of the reasons why we are so much opposed to this Act.

I shall recount briefly the history of this Act for the benefit of those Members who were not Members of this House when the Bill was first introduced. It was first introduced under the name of the Hindu Child Marriage Bill. Then it was committed to the Select Committee, and it

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emerged from the Select Committee as the Child Marriage Restraint Bill. It was introduced as a civil Bill, but it came out as a criminal Bill. Therefore, I appeal to my Hindu friends, even to my friend, Diwan Bahadur Harbilas Sarda, who originally introduced the Bill in order to stop the crying evil, according to him, of child marriage among the Hindus, to remain at any rate neutral on this occasion. We, who claim exemption from the Bill, want our Hindu friends at least to remain neutral. We want to get this Bill circulated for eliciting public opinion. It is the habit of Government to elicit public opinion when it suits their purpose, to manufacture public opinion when it suits them, and to shut out public opinion when it suits them. It is far better that the Muslims should know at once what is the attitude of Government, than that they should be lulled into false security and made again dupes by the Bill being circulated, because another six months will elapse before they could exactly know what the attitude of the Government towards the Muslims is. From that point of view, I am really grateful to the Honourable the Home Member that without any camouflage, without any waste of time, he got up in the House and told us what the attitude of the Government was.

Now, before I conclude, I should like to appeal to my European friends at least to abstain from taking any part in voting on this question. They have allowed themselves from time to time to be tied to the chariot wheels of the Government, to trample upon the sentiments and the feelings of Indians, Hindus or Muslims, they have allowed themselves to be tied to the apron strings of Government and dragged with them into the same lobby regardless of the effects which it would produce. Bureaucracy is bureaucracy. It does not consist of Sir Harry Haigs or Sir Brojendra Lal Mitters. It is a soulless machine. It would make no difference whatever even if it consisted entirely of Muslims. Those gentlemen, who are Members of Government, will vote not as Muslims, not as Indians, but they always vote as part of that soulless machine. No importance need be attached to their votes. There is a provision in the Lucknow Pact which says that when two-thirds of any particular community opposes any measure, which affects that community from the religious or social point of view, that measure should not be proceeded with and, I believe, similar demands are made by the Muslim League and by the Muslim Conference, and possibly by my orthodox Hindu friends also for religious safeguards, but I think there is some danger in the light of our present experience, because in a House like the Council of State, Government might get round a certain number of Muslim Members and say: "Here you have less than two-thirds who oppose this Bill and, therefore, the Bill is acceptable." Government are past masters in the art of manufacturing Muslim opinion when it suits them.

I was appealing to my European friends that they should not allow themselves to be tied to the apron strings of the Government. The bureaucracy is under a sentence of death. It is doomed, and will disappear with the dawn of the new Constitution, but you will be with us. Do not, by your foolish attitude of slavish subservience to Government, allow yourselves to be dragged into the lobby like dumb driven cattle and earn for yourselves a legacy of hatred and bitterness. All that I ask you to do is at least to remain neutral. My friend, Mr. Arthur Moore, interrupted me the other day and said that it was not the Europeans who made the Bill applicable to Muslims, but it emerged from the Select

Committee in that form. I am glad of his interruption. If that interruption indicates any change of heart, you have got the opportunity even today to show by at least your neutrality that you are not a party to what the Government wish to do today. I make the same appeal to my orthodox Hindu friends. My friend, Sir Hari Singh Gour, might do whatever he likes to destroy the institutions of the Hindus and go down to posterity as the modern Manu, and my friend, Diwan Bahadur Harbilas Sarda, may even be worshipped by countless generations of old maidens and young unmarried women as an Avatar. He may be apotheosised in the same way as Mahatma Gandhi. I have nothing to say against his noble ambition. My friend, the Diwan Bahadur, had been careful to fix the marriageable age at 18 and 14 for males and females, but he has done nothing to prevent that act of great cruelty to women, an old man of three-score years and ten marrying a girl of 15. I appeal to him to remain neutral on this occasion. I appeal to him to do exactly what he wanted us to do when the Hindu Child Marriage Restraint Act was under consideration. I make the same appeal to my friends, the Members of the Independent Party. There are Hindus and Parsis therein. They may be all enlightened gentlemen and there may be no question of child marriage amongst them. But I want them to restrain their own personal feelings and personal opinions and not be a party to the defeat of this Bill by the Government. We will be quite content if we are defeated by the Government, by their sheer weight of numbers with their nominated block. That will open the eyes of the Muslims who have been deluded into the belief that Government support them. That will cure them of their habit of fawning and flattering and hanging on the smiles of Government.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member has kept up his contract of one hour.

Sir Abdulla-al-Mámūn Suhrawardy: I am finishing now. This motion is moved not by a Member of the Independent Party, nor by an unattached Member, but by a Member of the United India Party. Let us see what treatment the United India Party, the loyal and faithful henchman of Government, receives at the hands of the Government. The Honourable the Home Member, an honest and outspoken gentleman that he is, has already indicated the attitude of the Government, and that is to oppose the Bill. Before I sit down, I will address a few remarks to the Government themselves. When I rise to address the Government, I do so more in sorrow than in anger. I feel it to be my duty to point out to Government the folly of the attitude they have taken, misled, as I believe, by the advice that they have received from certain gentlemen as to the attitude of enlightened Muslims on this particular question. The throwing out of this Bill will have a far reaching effect on the peace and contentment of the people. The Honourable the Home Member got up and practically repudiated what he considered to be an insinuation on my part regarding the Anti-Untouchability Bill although I made no insinuation and I was simply trying to meet the point of view of those who had insinuated that I was in conspiracy with Government to oppose the Anti-Untouchability Bill. It appears as if on the motion for the eliciting of public opinion on the Anti-Untouchability Bill—I may prophesy without claiming to be a prophet—the Government will get up and say yes, we are in sympathy with the object of the Bill though it affects the Hindu religion, whereas though they know very well

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that the Sarda Act is against Muslim opinion and that in the Select Committee there were only two Muslims, Mr. Jinnah and Sir Muhammad Yakub, and Sir Muhammad Yakub has expressed his opinion on the floor of the House and Mr. Jinnah has included religious safeguard in his Fourteen Points, yet Government will oppose this measure. I am perfectly sure that sooner or later, like the slogan of "Release the Mahatma", will be heard the cry of "Repeal the Sarda Act", which will be repeated from every platform and press in this country and reverberate throughout the length and breadth of the land till Government see their way to act up to public opinion or till between Gandhi and Government there will be such a ferment in the land that all slogans and war cries will be drowned in that of *Delenda est Carthago*. (Cheers.)

Several Honourable Members: The question may now be put.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. When the motion is made that the question be now put, it is for the Chair to decide whether it will agree to accept the closure or not. But it should be made perfectly clear that when the Chair agrees to accept a closure motion, the Chair does not thereby close the debate. It only gives an opportunity to the House itself to decide whether it would proceed with the debate or close the debate. The only circumstance in which the Chair will not accept a closure is when the Chair is convinced that the right of minorities has been suppressed and that there has not been a fair debate. In this connection, from the cry, that came from various quarters of the House that the question be now put, the Chair ought to give an opportunity to the House itself to decide whether it will continue the debate or not. After all, the motion before the House is one for the circulation of the Bill. Six Honourable Members have already taken part in the debate representing various points of view, and it is perhaps proper that the Chair should allow the House itself to decide whether it will further continue the discussion of the motion.

Raja Bahadur G. Krishnamachariar: Not the Hindu point of view yet.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadian Rural): I only want to make a short speech for two or three minutes.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Do Government want to reply?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain (Member for Education, Health and Lands): I wanted to speak . . .

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): On behalf of Government?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Hardly that. I am not a Member of the House.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member, not being a Member of the House, has no right to

address the House in his individual capacity, but a Member of the Executive Council of the Governor General has got, under the Statute, the right of addressing the House, and it is presumed that that will be on behalf of the Government. If the Honourable Member wants to address on behalf of the Government, the Chair will certainly allow him to do so.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): When the closure has been moved that the question be now put, and it is accepted by the House, the Government get the right of replying.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): And that is why the Chair has allowed the Honourable Member to speak on behalf of Government.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, if you have accepted the closure, it is after the decision of the House that the Chair will ask the Government Member to address the House.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Chair is obliged to the Honourable Member for drawing its attention. The question is that the question be now put.

The Assembly divided:

AYES—40.

Abdul Matin Chaudhury, Mr.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Chandi Mal Gola, Bhagat.
Das, Mr. B.
Dudhoria, Mr. Nabakumar Sing.
Hari Raj Swarup, Lala.
Iara, Chaudhri.
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.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Mitra, Mr. S. C.
Mody, Mr. H. P.

Mudaliar, Diwan Bahadur A. Rama-
swami.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Nihal Singh, Sardar.
Parma Nand, Bhai.
Phookun, Mr. T. R.
Raghubir Singh, Kunwar.
Rajah, Rao Bahadur M. C.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Ranga, Iyer, Mr. C. S.
Rastogi, Mr. Badri Lal.
Roy, Rai Bahadur Sukhraj.
Sarda, Diwan Bahadur Harbilas.
Sarma, Mr. R. S.
Shah Nawaz, Mian Muhammad.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Suhrawardy, Sir Abdulla-al-Mamūn.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—17.

Ahmad Nawaz Khan, Major Nawab.
Anwar-ul-Azim, Mr. Muhammad.
Biswas, Mr. C. C.
Dutt, Mr. Amar Nath.
Ghuznavi, Mr. A. H.
Gunjal, Mr. N. R.
Ismail Ali Khan, Kunwar Hajee.
Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur G.

Lahiri Chaudhury, Mr. D. K.
Misra, Mr. B. N.
Muazzam Sahib Bahadur, Mr.
Muhammad.
Mukherjee, Rai Bahadur S. C.
Pandian, Mr. B. Rajaram.
Rajah, Raja Sir Vasudeva.
Sen, Pandit Satyendra Nath.
Thampan, Mr. K. P.

The motion was adopted.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Does the Mover of the motion want to reply?

Khan Bahadur Haji Wajihuddin (Cities of the United Provinces: Muhammadan Urban): Yes, Sir. Before I proceed to deal with the opposition levelled against my speech on the 27th February last by my Honourable friend, Sir Harry Haig, I think it my duty to thank all Honourable Members of this House who have accorded wholehearted support to my motion. The Honourable the Home Member said the other day that . . .

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): On a point of order, Sir, you just now permitted Sir Fazl-i-Husain to reply on behalf of Government? Will his speech be delivered after the reply of the Mover or before?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): When the closure has been applied and accepted, before the original question is put, the Mover of the motion has got a right of reply, and the Chair has accordingly called upon the Mover of the motion to reply. The Government Member may also reply if he desires to do so.

Mr. A. H. Ghumavi (Dacca cum Mymensingh: Muhammadan Rural): Today is Friday, and Mussalmans want to go for their Juma prayers.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Yes. The Chair proposes to adjourn the House at a quarter to one.

Khan Bahadur Haji Wajihuddin: Sir, the other day when the Government supported the Sarda Bill, it was stated that it was felt that it would tend to alleviate human suffering and promote the welfare of the race, that it was not from any wanton desire to interfere with the religious practices or beliefs of any community in this country, and that hence the Government were not able even to accept my motion for circulation of the amending Bill. Sir, I am very much disappointed with this unexpected answer, and I cannot understand how the Government can claim that they supported the Sarda Bill simply to better the lot of the suffering humanity, for the institution of early marriage is not the solitary evil under which the Indian nation groans, and the removal of it is by no means the immediate requirement of the Indian people.

Now, if the Government take credit to themselves for such a humanitarian principle, it is all the more their duty to realize the mistake they had committed in supporting the Sarda Bill in the face of almost united Muslim opposition and thus wounding their religious susceptibilities. The least that they should do today is to support my Bill wholeheartedly. Sir, may I ask my Honourable friend, the Home Member, what justification the Government have for interfering with the religious code of the Muslims and inflicting a foolish piece of legislation on them under the pious garb of humanity when the Government themselves admit that "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"?

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): On a point of order, Mr. President. Is it in order to call a piece of legislation, passed by this Honourable House by an overwhelming majority, a foolish piece of legislation?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): If the Honourable Member has used such a word, he ought to withdraw it

Khan Bahadur Haji Wajihuddin: I withdraw the word, Sir.

Now, the question is, to what extent have the Government adhered to that principle in this matter and on what authority they decided to improve the lot of unwilling people? Sir, in my last speech I quoted certain references in the speech delivered in this House on the 3rd February, 1931, by my esteemed friend, the Leader of the House, which clearly shows that, so far as the Muslims are concerned, Government had adopted quite a wrong policy in supporting the Sarda Bill in the year 1929. Sir, it is, therefore, the right time to rectify that mistake by supporting my motion for circulation of my Bill. May I ask my Honourable and esteemed friend, the Leader of the House, to come forward and plead a just cause as was done by him on the 3rd February, 1931? May I ask, Sir, even if the Honourable the Home Member's notion of humanity conflicts with our religious code, are we to stand to his dictation? Do we not consider the Islamic Code a perfect law? Can any secular Legislature of the land improve the lot of humanity better than our religious code does? I may be pardoned, Sir, if I ask the Honourable the Home Member in what other spheres has he acted upon his professions of humanity? Is it not real humanity to fight against the drink evil? Is it not a fact that, for the sake of 20 crores of rupees of revenue, the Government opposed the Prohibition Resolution moved by me in 1925? May I ask, Sir, is it not real humanity to put an end to the shameless evil of prostitution? The whole country is clamouring against this, but have the Government ever done anything to eradicate this? (*Some Honourable Members*: "Be short.") Very well, Sir, I shall not take up so much time. (Hear, hear.) I request that my Bill be circulated for eliciting Muslim public opinion thereon. If the majority of Muslim public opinion turns out in favour of my amended Bill, then and then alone will I request permission to bring forward the consideration motion. Otherwise not. With these words, I resume my seat.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): It is now a quarter to one, and today being Friday, the Assembly will now adjourn and re-assemble at a quarter past two. Will that suit the convenience of the Honourable Member?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Yes, Sir.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Sir, the Bill under discussion relates to a measure that was passed by the Assembly in 1929 and is now called the Child Marriage Restraint Act, XIX of 1929. The discussion on this Bill, although on the motion for circulation, has covered a good deal of ground. The merits of the Bill have been discussed;

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the principle of the Bill has been discussed: and, as a matter of fact, even the working of the Bill has been discussed. Its evil consequences have been dilated upon and amongst other arguments urged are, firstly, that the Bill violates the principles of the Islamic Law; secondly, that it is not needed by the Muslim community inasmuch as child marriage does not prevail in that community.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): As a general rule.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Yes, "prevail" means that. Thirdly, that this Legislature has no jurisdiction to pass a measure like this modifying the personal law of the Muslims; and, fourthly, that a measure like this was needed by the Hindu community amongst whom the evil existed and where it existed the law and practices prevailing amongst the Hindus did not permit those evil consequences to be counteracted. Sir, I do not think the House just now is in the mood to like me to traverse the whole ground raised by these four contentions, nor perhaps on a motion for circulation it would be advisable for me to try to meet the arguments that have been urged. It will suffice perhaps to say that the distinction made by one of the speakers, my friend, Sir Abdulla Suhrawardy, between the violation of an injunction of the Islamic Law and the restriction of the scope of the discretion allowed to an individual or a group of individuals was such a valuable contribution to the controversy that, as I understand it, it really smashed the argument of the Honourable the Mover of this motion. What, then, is the position? We have been asked that as it is a very inoffensive little motion for circulation, what harm does it do if Government keep quiet and let the Bill be circulated. Why should Government take up an attitude of opposition? Well, Sir, at certain stages the controversy on the first day of the discussion grew quite warm. It was urged that Government had wantonly interfered with the personal law of the Muslims. Why they did so, no attempt was made to say. Surely it was not one of the points to which Government as Government could attach an importance, that they should go out of their way to wantonly interfere with the personal law of a community with whom they had no particular quarrel. It was said that probably Government were misled inasmuch as the law was wanted by the Hindus

Raja Bahadur G. Krishnamachariar: It was not.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: So they say.

An Honourable Member: It was wanted only by one section of the Hindu community.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Quite right. It was said that it got fastened on to Muslims, because they were not vigilant enough to oppose its application to themselves at the earliest date possible. Because they were quiet and not wide awake, that this law took them into its own fold. I do not want again to go into the history of this matter, because it will take me too long to do so. There is a clear distinction, I admit, between the needs of the two communities so far as

least as the law is concerned. I believe I am not far wrong that the evil of child marriage on the whole is more rampant in the Hindu society than in the Muslim society.

Mr. B. Sitaramaraju. (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural): May I just point out, Sir, that there are several Hindu communities where child marriage is not common and they form the majority of the Hindus.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Quite possible. They are in the majority in India?

Mr. B. Sitaramaraju: I said the majority of Hindus.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: I am glad to hear that, very glad indeed. There is, however, so far as the law is concerned, also if I may say so, a distinction. The law amongst the Hindus is understood generally to be definitely for child marriage; amongst Muslims it cannot be said to be for child marriage. There, again, it is one of the numerous points which one has to take notice of in this problem. Far be it from me to say that Government have tried to make any distinction between the two communities. Government proceeded on but one principle and that principle was of promoting a mild social reform in the interests of humanity.

Nawab Naharsingji Ishwarsingji (Bombay Northern Division: Muhammadian Rural): Was this the only question of humanity? There are so many other questions of humanity pending solution.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: My Honourable friend will recognise that however mighty a Government may be, it cannot take up all points at once. That is enough to meet the interruption. As I was saying, Sir, this was, so far as Government were concerned, purely a measure of social reform. Government, it is urged by supporters of the motion, have been unwise in thinking that there were fairly large sections of Indians of education, light and leading who were prepared to stand by this reform. It was on that understanding that Government felt that they ought not to stand in the way of that reform, but to such extent, as lay within their power, give it a mild form of support. If, however, it is felt by the House that Government were under a misapprehension on that point, I assure the House that Government are not bound by any conclusions that they may have arrived at on such evidence as was before them at that time.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): That evidence still stands.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: I am glad to hear it; but if Honourable Members assert that Government were under a misapprehension at that time, only under that condition would Government be prepared to reconsider the matter. But to a very large extent Government have to go in the first instance by the expression of opinion of the accredited representatives of the people who are here to assist Government in legislative measures. My task, therefore, in view of such other business as has to come up before the House, is a fairly simple one. Government still stand by the principle of the Act which it is attempted to modify by this Bill. If it is alleged that there is very little support for that measure in this House and outside it, Government are prepared to wait and see.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa : Muhammadan): What about interference with religion?

Pandit Ram Krishna Jha (Darbhanga *cum* Saran : Non-Muhammadan): Why not circulate it?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Well, Sir, two interruptions have come my way. One is, what about interference with religion, and the other is why not circulate the Bill. I cannot see how circulating the Bill can remove interference with religion. *That* it cannot. Even if we circulate it 50 times, if the Bill interferes with religion, it will still continue to interfere with religion.

Mr. M. Maswood Ahmad: You will know the religious views.

Mr. Amar Nath Dutt: And religion too.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: I know it perfectly well. The Honourable Member says, what about religious views. I have already pointed out to the House that the religious argument has been very effectively smashed by the able argument of the Honourable Member who comes from the same great province as Mr. Amar Nath Dutt who interrupted me, and that is Dr. Suhrawardy. His scholarship came to his rescue when his emotion and sentiments had almost overpowered him,—great credit to him is due for that. He has clearly pointed out a distinction which may not be patent to those who are not familiar with the *fiqah*, i.e., the Islamic law of the Muslims. He has said that orders and injunctions of Islam can be divided under two heads. There are, on the one hand things which you must or must not do and, on the other hand, things which you are permitted to do. If there is an order which falls under the first category, any alteration of it would be an interference to that extent with that order. As regards the second category, it is a discretionary matter. I can say to myself, I am allowed by the tenets of my religion to go to the extent of marrying four wives, but I will limit myself to one. Will any Honourable Member say that thereby I am disobeying the injunctions of Islam? There are certain rules which say that you may do a thing, and my friends forget that “may” is not “must”. If an individual can restrict himself within the field of discretion, surely a number of individuals can meet together and restrict themselves similarly.

Sir Muhammad Yakub: I would remind the Honourable Member that if, by any Act of the Legislature, you restrict marriage to one wife, it would be an interference with law according to the Muslim *fiqah*.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: I think the Honourable Member need not get excited over the threatened legislation limiting the number of wives. (Laughter.)

Sir Muhammad Yakub: With such exponents of Islam, it may come to that.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: If you get on democratically enfranchising women, you may have even stronger exponents of Islam than my humble self. However, do not let me go far afield from the actual subject under discussion which is simply this. Is it or is it not open to a community or a collection of individuals by mutual agreement to say that things permissible to us we, for certain social or economic reasons, are going to deny to ourselves?

Mr. M. Maswood Ahmad: That is *wajib*, not *nafil*.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: What I am talking of is quite different. The Honourable Member should know that his phraseology does not apply to this discussion.

Sir Muhammad Yakub: We are not having *aj mae ummat* in this House.

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: My Honourable friends are now shifting the ground. First they said it was an interference with religion. Having convinced them that it is not interference with religion, now they challenge the jurisdiction of this House. If I were to enter upon that discussion, I will have to ask them, is it not a fact that all Muslims of different shades of political thought and opinion in the country have never gone beyond suggesting that a measure affecting them should be considered as passed if, by a two-third majority, they are in support of it, meaning thereby that if such a majority is forthcoming, such a law can be passed by this Legislature or its successors? That, again, is a very interesting constitutional point and I should very much like really to talk about it as I find it of absorbing interest and, moreover, of extreme importance to the country. But I do not think the House would like me to dilate on it as they are so keenly interested on a more interesting subject than this one, at all events this afternoon. I would, therefore, tell the Honourable Members to make up their minds. Do they really want Government to reconsider the principle of the Act? If they do, Government will not take up the attitude that we made up our minds once and there is no changing. Government opinion, as I said, was based not upon their personal individual opinion or upon the opinion of Government as a corporate body, but on the basis of data supplied to that Government by the expression of opinion of leading Members of this House at the time and leading people of light and education outside the House.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, does circulation of the Bill really mean reconsideration of the principle of the Bill?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Well, Sir, circulation of a Bill can mean only one thing. The authority sanctioning circulation is in doubt. It does not know its own mind and would like some light to be thrown on the matter. It can have no other meaning.

Sir Hari Singh Gour: Sir, may I enquire from the Honourable Member whether the motion for circulation does not imply an assumption of authority and jurisdiction which is denied to this House?

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain: Perfectly true; a more strong constitutional point going to the very root of the motion could not have been so well put by me as has been put by my Honourable friend, the Leader of the Opposition. Therefore, Sir, I want to make the matter clear beyond all doubt that Government do not take up an obstructive attitude. Government are ready to stand by the decision they arrived at in the light of facts which were before them. If other facts have come to the knowledge of the Honourable Members who represent the country Government will be prepared to consider them. (*A voice:* "No new facts have come.") Therefore, as was said by the Honourable the Home Member last time when we discussed this, we are opposed to the motion.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty):
The question is:

"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."

The Assembly divided:

AYES—44.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Anwar-ul-Azim, Mr. Muhammad.
Ashar Ali, Mr. Muhammad.
Badi-us-Zaman, Maulvi
Bluput Sing, Mr.
Biswas, Mr. C. C.
Brij Kishore, Rai Bahadur Lala.
Chinoy, Mr. Rahimtoola M.
Dutt, Mr. Amar Nath.
Ghuznavi, Mr. A. H.
Gunjal, Mr. N. R.
Ibrahim Ali Khan, Lieut. Nawab
Muhammad.
Ishwarsingji, Nawab Naharsingji.
Jehangir, Sir Cowasji.
Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Liladhar Chaudhury, Seth.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. C.
Mody, Mr. H. P.
Muazzam Sahib Bahadur, Mr.
Muhammad.

Mudaliar, Diwan Bahadur A. Rama-
swami.
Mukherjee, Rai Bahadur S. C.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
O'Sullivan, Mr. D. N.
Pandian, Mr. B. Rajaram.
Puri, Mr. Goswami M. R.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Rajah, Raja Sir Vasudeva.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Ranga Iyer, Mr. C. S.
Roy, Rai Bahadur Sukhraj.
Sen, Pandit Satyendra Nath.
Shafee Daoodi, Maulvi Muhammad.
Sitaramaraju, Mr. B.
Suhrawardy, Sir Abdulla-al-Māmūn.
Talib Mehdi Khan, Nawab Major
Malik.
Uppi Saheb Bahadur, Mr.
Wajihuddin, Khan Bahadur Haji.
Yakub, Sir Muhammad.
Ziauddin Ahmad, Dr.

NOES—46

Abdul Hye, Khan Bahadur Abul
Hasnat Muhammad.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan
Bahadur Malik.
Bajpai, Mr. G. S.
Bhore, The Honourable Sir Joseph.
Clow, Mr. A. G.
Dalal, Dr. R. D.
Das, Mr. B.
DeSouza, Dr. F. X.
Dudhoria, Mr. Nabakumar Sing.
Dutt, Mr. G. S.
Dutt, Mr. P. C.
Gidney, Lieut.-Colonel, Sir Henry.
Grant, Mr. C. F.
Gwyne, Mr. C. W.
Haig, The Honourable Sir Harry.
Hezlett, Mr. J.
Jadhav, Mr. B. V.
Jawahar Singh, Sardar Bahadur
Sardar.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Lalchand Navalrai, Mr.

Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Leach, Mr. A. G.
Metcalfe, Mr. H. A. F.
Mitchell, Mr. D. G.
Mitter, The Honourable Sir
Brojendra.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Raghubir Singh, Kunwar.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Ryan, Sir Thomas.
Saqda, Diwan Bahadur Harbilas.
Schuster, The Honourable Sir George.
Scott, Mr. J. Ramsay.
Seaman, Mr. C. K.
Sher Muhammad Khan Gakhar,
Captain.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Pradyumna Prashad.
Smart, Mr. W. W.
Tottenham, Mr. G. R. F.
Vachha, Khan Bahadur J. B.

The motion was negatived.

THE HINDU TEMPLE ENTRY DISABILITIES REMOVAL BILL.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I move for leave to introduce a Bill to remove the disabilities of the so-called depressed classes in regard to entry into Hindu temples

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Sir, I rise to a point of order and it is this: there has been a convention established in this House that there will be no opposition to the introduction of Bills. But that particular convention is also coupled with another convention that no further motions on the same Bill should be made on that particular day. Now, I see in the list there is another motion for getting this Bill circulated for eliciting opinion thereon, and I want your ruling on that particular motion.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The point of order raised by the Honourable Member is a little too premature: it does not arise on this particular motion.

Mr. D. K. Lahiri Chaudhury: I want your ruling, Sir, on the point whether you will allow the further motion to be made.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The ruling, if necessary, will be given by the Chair if and when the point of order is raised at the proper time.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I rise to a point of order. My point is that this Bill is outside the jurisdiction and *ultra vires* of this House and cannot be taken up. I crave your indulgence for a while, Sir, as this is an important, but highly technical, question and I may probably take some time to develop it. The Government of India Act provides, with a view to granting to the popular Ministers in the Provinces of India, a large measure of independence of the control of the Central Government and for the gradual development of self-governing institutions in this country, for the classification of all administrative heads into two distinct groups called the Central and Provincial subjects. Section 45A (page 73 of the Government of India Act) lays down:

“ Provision may be made by rules under this Act—

- (a) for the classification of subjects, in relation to the functions of government, as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor General in Council and the Indian legislature;
- (b) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments; ”

Then, again, with regard to provincial subjects, sub-section (d) provides for as follows:

“ (d) for the transfer from among the provincial subjects of subjects (in this Act referred to as “ transferred subjects ”) to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.”

Mr. B. Das (Orissa Division: Non-Muhammadan): On a point of order, Sir,

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): A point of order is being raised and there cannot be a point of order on a point of order.

Mr. K. P. Thampan: The main Act does not attempt to divide the subjects, but leaves it to the Rules to be framed thereunder. Sub-section (2) (i) of section 45A reads:

"Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may regulate the extent and conditions of such devolution, allocation and transfer."

Pursuant to this and for the purpose of implementing what is provided for in this section, certain sets of Rules, known as the Devolution Rules, were framed and promulgated in December, 1920. They were approved of by both Houses of Parliament, and, so far as this House is concerned, have the same statutory force as the Act itself . . .

Mr. R. S. Sarma (Nominated Non-Official): Are we not entitled, Sir, to know what the point of order is, before the point is developed?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Chair thinks that the Honourable Member is entitled to develop his point.

Mr. K. P. Thampan: Sir, I have already said what my point of order is. I will now proceed. Section 129A(1) and the proviso in it make this very clear and beyond doubt. They run thus:

"Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature."

Now, I must take you to the part dealing with the classification of the subjects. Part I of the Devolution Rules does it. Article 3(1) and (2) lays down:

"For the purpose of distinguishing the functions of the Local Governments and local Legislatures of Governors' provinces from the functions of the Governor General in Council and the Indian Legislature, subjects shall in those provinces be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in Schedule I."

Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part."

Sir, I wish you will mark the words "the Local Governments and local Legislatures" and the words "the Governor General in Council and the Indian Legislature", to the importance of which I shall refer later on. Religious and charitable endowments are treated as provincial subjects and entered as item 28 of the Schedule, page 206. The provincial subjects are again divided into two categories, known as the Reserved and Transferred subjects, as contemplated in the section. Article 6 deals with it and runs thus:

"The provincial subjects specified in the first column of Schedule II shall, in the Governors' provinces shown against each subject in the second column of the said Schedule, be transferred subjects;"

Schedule II sets out the various subjects under this class and you will find that in all Governors' provinces item 15, page 212, religious and charitable endowments are transferred subjects.

The point we have to consider is, what are the powers of the Governor General in Council and the Indian Legislature *vis-à-vis* the transferred subjects under the Provincial Governments. We find in sub-section (3) of section 45A that:

"The powers of superintendence, direction and control over local Governments vested in the Governor General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act

Then, again, it is the Rules that we have to look to for guidance. But, before attempting to do so, I have to invite your attention to what the Joint Select Committee on the Government of India Bill said in regard to this. They say in para. 2, page 27, last sentence:

"Over transferred subjects, on the other hand, the control of the Governor General in Council, and thus of the Secretary of State, should be restricted in future within the narrowest possible limits, which will be defined by rules under sub-clause 3 of clause 1 of the Bill."

In considering the draft rules of devolution, the Joint Select Committee again expressed the same opinion, though they were dealing mainly with the expenditure of transferred subjects. They make no bones to state:

"But subject to these limitations Ministers should be as free as possible from external control, and the control to be exercised over expenditure on transferred subjects should be exercised by the provincial legislature, and by that body alone."

It is also noteworthy that in commenting on the Rule framed under section 33 which deals with the general powers of the Governor General in regard to the direction, control and supervision of the entire administration of this country, the Committee say thus on page 179:

"The Committee consider that no statutory divestment of control, except over the transferred field, is either necessary or desirable;"

In other words, they recommend that over the transferred field divestment of control is necessary and desirable. This recommendation was embodied in Article 13 of the Devolution Rules, which will be found on page 188. It reads thus:

"Subject to the provision of these rules, provincial subjects shall be administered by the local Government. But save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction and control conferred on the Governor General in Council by the Act."

Sir, mark the words "save in the case of transferred subjects". The whole issue is clinched in Article 49 dealing with the limitation of control. This is what it says:

"The powers of superintendence, direction and control over the Local Government of a Governor's province vested in the Governor General in Council under the Act shall, in relation to transferred subjects, be exercised only for the following purposes, namely:

- (1) to safeguard the administration of central subjects;
- (2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement, and
- (3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor General in Council under, or in connection with, or for the purposes of the following provisions of the Act, namely section 29A, section 30(1-A), Part VIII-A, or of any rules made by, or with the sanction of, the Secretary of State in Council."

Nothing can be clearer than that.

[Mr. K. P. Thampan.]

The powers of the Governor General in Council and of the Indian Legislature as described in Article 8 (1) to which reference has
3 P.M. already been made are conjoint and not separable. If the Governor General has no power of control or direction, it goes without saying that the Indian Legislature also has no right to legislate for transferred subjects. While on this subject, I may be permitted to draw your attention to the proviso to Rule 6, which reads thus :

" Provided that the Governor General in Council may, by notification in the Gazette of India, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subjects shall not be a transferred subject. "

Now, Sir, it is apparent, therefore, that if the Governor General in Council wants to exercise control over any transferred subject, he must suspend or revoke such transfer, and until and unless that is done, the subject is absolutely outside his control. Such a revocation or transfer has not yet been made with regard to religious endowments and it is, therefore, the Provincial Councils and Provincial Councils alone that can take up this legislation. The wide powers of legislation under section 65 of the Indian Legislature are, I submit, limited to its own sphere and ambit of its own activities.

In this connection it may not be irrelevant to refer to some of the most important clauses of the Bill. Clauses 7 and 8 are amendments to the Madras Act XI of 1927. I venture to submit that that is pre-eminently a measure for the Madras Legislative Council to undertake, and this House can have nothing to do with such a thing.

There is one more point to which I wish to refer. It is the sanction accorded by His Excellency the Governor General for the introduction of this Bill under section 67 (2). It may be that His Excellency has given due consideration to this aspect of the question. It may be equally possible that he has not. For all I know he has been wrongly advised. That sanction, I trust, will not weigh with you in your decision. You are the custodian of the rights and privileges of this House, and I am confident you will give a correct and impartial ruling based on its merits alone, despite all other considerations.

Mr. R. S. Sarma: May I answer his point of order, Sir?

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): If the Honourable Member has got anything to say on the point of order, he can speak.

Mr. R. S. Sarma: I think, Sir, the point of order raised by my friend, Mr. Thampan, is entirely wrong, because of this. He wants to build his point of order or point of disorder on the Devolution Rules which, in my opinion, are matters for adjustment and arrangement between the Central executive and the Provincial executive.

The second point is that this Assembly, according to the Government of India Act, has the power to legislate for all persons and for all places in British India.

And the third point is, if I remember aright, on the floor of this House two Bills of a similar character which can be described as Bills referring to Transferred Subjects have been disposed of, and I think my friend, Sir Hari Singh Gour, will bear me out,—namely, the Religious Endowment Bill and the Mussalman Waqfs Registration Bill which was moved by Mr. Abul Kassim, and, therefore, I think this point of order is wholly irrelevant.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muham-madan Urban): Sir, I only want to make one or two observations. While I agree with much of what my friend, Mr. Thampan, has said, I think he has gone wrong in the interpretation of the words "religious and charitable endowments". Those words relate to property. They do not relate to those intangible rights which are called civil rights. The present Bill deals with civil rights, not connected with the religious rights, and what this Bill seeks to regulate is the civil rights apart from any right over property. It cannot be said that entry into a temple is a right of property. It is not a right *in personam*; it is not a personal right, nor is it a right which relates to any property. Religious and charitable endowments is a provincial transferred subject as such, and, therefore, I think that the point of order does not really arise, and that this Bill is within the jurisdiction of this Assembly. Well, Sir, civil laws and civil rights are Central subjects, and this is a civil right which is proposed to be either modified or changed, and therefore, this House has full jurisdiction in the regulation of civil rights under the section that deals with that as a Central subject to deal with this subject.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muham-madan): Sir, may I be permitted to add only one word? A Bill to remove the disabilities affecting the untouchable classes of the Hindu community was also introduced by you, Sir, in this very House on the 18th February, 1932. There the Chair allowed a Bill of a similar nature to be introduced. Therefore, my submission is, that this Bill also is within the competence of this House.

[At this stage Mr. K. P. Thampan rose to speak.]

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member has no right of reply.

The Honourable Member has raised a very important point of order relating to the jurisdiction of this House. If the Chair understood the Honourable Member's point aright, it is briefly this, that in accordance with the provisions of the Government of India Act and the Devolution Rules made thereunder the subject matter covered by the proposed legislation is a provincial transferred subject, and as such, this Legislative Assembly has no jurisdiction to interfere with any laws relating to that subject.

In deciding the jurisdiction of the Central Legislature, the Chair has primarily to be guided by the provisions of the Government of India Act, and no rule, inconsistent with the provisions of the Government of India Act, can override the provisions of the Act itself. The powers of the

[Mr. President.]

Indian Legislature to make laws are contained in section 65 of the Government of India Act. Section 65 (1) (a) says:

"The Indian Legislature has power to make law for all persons, for all courts, and for all places and things, within British India",

Section 65 (1) (f) says:

"..... for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the Indian legislature has power to make laws."

According to these provisions of section 65, the Indian Legislature has almost unlimited power to promulgate laws for all persons, for all Courts, and for all places and things within British India and for repealing and altering any laws which for the time being are in force in any part of British India. The only other point that the Chair has to consider is whether this absolute power conferred by section 65 of the Act is in any manner restricted by any other provision of the Act, and the restriction imposed upon the jurisdiction of this Legislature is contained in section 67 of the Act. Under section 67 (2) (i):

"It shall not be lawful, without the previous sanction of the Governor General, to introduce at any meeting of either chamber of the Indian Legislature any measure regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian Legislature."

The meaning of this restriction is this. If under any of the rules made under the Government of India Act, it is specifically enumerated that the subject matter is within the jurisdiction of the Indian Legislature, then the Indian Legislature is at perfect liberty to pass any such laws; but if the subject matter of the proposed legislation relates to any provincial subject or any part of a provincial subject it shall not be enacted without the previous sanction of the Governor General. So that the position is this. Even though the subject matter of a proposed legislation in this House may affect any provincial legislation, so long as the sanction of His Excellency the Governor General has been obtained for the introduction of that legislation it will be perfectly within the competence of this Legislature to proceed with that legislation. The proposed Bill of Mr. Ranga Iyer, whether it infringes any provincial subject or not, has clearly obtained the sanction of His Excellency the Governor General for introduction, and as such, the Chair holds that it is within the jurisdiction of this House to consider that Bill.

Raja Sir Vasudeva Rajah (Madras: Landholders): Mr. President, I rise to oppose the motion now before the House and in doing so,

An Honourable Member: It is not moved yet.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Chair understands that the Honourable Member wants to oppose the granting of leave to introduce the Bill. In such a case, according to the procedure in this House, the Chair will call upon the Mover of the motion and the person who opposes, to make brief statements in support of their contentions. The Chair would now call upon Mr. Ranga Iyer to make any brief statement that he may desire to do.

Mr. C. S. Ranga Iyer: In this House, where brevity will be understood at least during this day as the soul of wit, I refer Honourable Members to the Statement of Objects and Reasons of my Bill where the purpose of this Bill has been explained. Sir, I ask for leave.

Raja Sir Vasudeva Rajah: Sir, I rise to oppose the motion for leave to introduce the Bill intended to remove the disabilities now existing in entering the Hindu temples by depressed classes and, in doing so, I should like to make a short statement.

I know, Sir, that there is a convention in this House that, as a general rule, a motion for leave to introduce a Bill should not be opposed at this stage and that it is only during the later stages that objections are pressed. But, Sir, this is not a universal law of Ethics or of parliamentary practice, but only a convention indicating the usual procedure in ordinary matters and I stand today in the most unfortunate predicament, that, owing to the extremely extraordinary character of the subject matter of the Bill for the introduction of which leave has been sought (a subject matter which relates to a purely religious problem affecting the faith, the worship and the rituals of Sanatana Dharma Hindus and is, therefore, really beyond the jurisdiction of this House altogether), I am called upon most reluctantly but most unavoidably to perform a painful duty of breaking the convention in question by opposing this motion.

Sir, it was the solemn pledge of Her Majesty Queen Victoria of blessed memory and Their Majesties King Edward VII and King George V that the State would never interfere in matters of religion. It is a too very elementary and axiomatic principle of Rationalistic Ethics on the one hand and of constitutional law of all civilised countries (endorsed by the Nehru Constitution) on the other, that individual and communal safety should be guaranteed to all in matters of religious faith as a fundamental Constitutional Right and that the State would never interfere therein. If this principle is violated in one instance in the case of one community, every other community in this land stand the risk of their religion and their practices being encroached upon and attacked at one time or other. This is a most dangerous experiment calculated to disrupt our community violently and it may even lead to most disastrous consequences. We have seen that even small interferences in their religious practices and faith are resented and rightly too by our Mussalman friends and it has led to serious riots and disturbances in the past between Hindus and Muhammadans. Interferences of such far reaching and revolutionary nature, such as those the Bill contemplates, are bound to create resentment beyond measure among those that are affected, and are likely to divide our community into two irreconcilable parties. At a time when leaders like Mr. Jinnah and others are asking for Hindu-Muslim unity, here is a measure proposed which is sure to bring about disruption, disaffection and disunion in our own ranks. Any one who has the welfare of our country at heart should avoid all measures which are likely to bring about these undesirable results. All the more so at a time when we should all stand united as one to improve our political, economic and social conditions and to work the coming constitutional reforms as best as we can without any rancour and in spirit of goodwill.

[Raja Sir Vasudeva Rajah.]

If sanction for introduction is given, it is bound to create a huge agitation in our country and it is difficult to foresee what untoward consequences will follow.

I am aware that in connection with the Sarda Act whenever the Sanatanists spoke and even now speak of it as a measure affecting their religion, they were and are still being told that the Act related not to a religious but a purely social matter, and now, Sir, we are told that the Bill in question is also a purely social measure and has nothing to do with religion. If even questions relating to our temples and how, where, when and with whom we shall or shall not carry on our worship and rituals there, if even such be declared to be unconnected with religion, we are absolutely unable to imagine what subject is left at all which our self-styled reformers will be prepared to acknowledge as coming within the sphere of religion. Surely, Sir, it is a contradiction in terms and the height of absurdity to speak of the temple entry question as being unconnected with religion. I hope the House will not be carried away either by the influence of Mahatma Gandhi or his Congress followers or by the thundering eloquence of my friend. Mr. C. S. Ranga Iyer, and perpetrate a grave wrong on the Hindu community. Allow me here to quote the speech which the Governor of Bombay made the other day. He said:

"In spite of its grandiloquent claims, the Congress represents only a small fraction of the community as a whole. We have not embarked upon spectacular schemes for throwing open places of worship to all comers"

and so on. As the Governor termed it, this is but a spectacular Bill which is not likely to improve the material or social conditions of the depressed classes in any way. It is merely an attempt to unsettle the settled laws of the land. I strongly oppose the motion before the House.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That leave be given to introduce a Bill to remove the disabilities of the so-called depressed classes in regard to entry into Hindu temples."

The motion was adopted.

Mr. C. S. Ranga Iyer: Sir, I introduce the Bill.

THE CHILD MARRIAGE RESTRAINT (REPEALING) BILL.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill to repeal the Child Marriage Restraint Act, 1929.

The motion was adopted.

Raja Bahadur G. Krishnamachariar: Sir, I introduce the Bill.

THE GIRLS PROTECTION BILL.

Kunwar Raghubir Singh (Agra Division: Non-Muhammadan Rural): Sir, I move for leave to introduce a Bill to protect minor girls.

The motion was adopted.

Kunwar Raghubir Singh: Sir, I introduce the Bill.

THE UNTOUCHABILITY ABOLITION BILL.

Rao Bahadur M. C. Rajah (Nominated Non-Official): Sir, I move for leave to introduce a Bill to provide for the abolition of untouchability among the Hindus.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I oppose this, because it is an interference with the leading tenets of the Hindu religion, which are represented by the caste system. Without the caste system, there is no Hindu religion. (Laughter.) It is no good laughing. Unfortunately it is the Hindus who laugh most. This Bill is driving a wedge into the Hindu community. Therefore, I oppose it.

Rao Bahadur M. C. Rajah: I have nothing more to add, but let me refer my revered Leader to the Statement of Objects and Reasons in the Bill. (Laughter.)

The motion was adopted.

Rao Bahadur M. C. Rajah: Sir, I introduce the Bill.

THE BENGAL STATE-PRISONERS REGULATION (REPEALING) BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I move for leave to introduce a Bill to repeal the Bengal State-Prisoners Regulation, 1818, which is our old friend.

The motion was adopted.

Mr. Amar Nath Dutt: Sir, I introduce the Bill.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The next motion* is barred by No. 7†

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muham-madan Urban): May I know why it is barred? In the case of Bills, it may be that the Member who introduces the Bill may not proceed with it.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Two motions raising substantially the same issue cannot be moved in the same Session. It comes within the mischief of the rule relating to repetition. If an Honourable Member who introduces a motion is not able to proceed with the subsequent stages, he has got the remedy in his own hands. He can authorise some other Member to move the motion.

THE INDIAN CRIMINAL LAW AMENDMENT BILL.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.

The subject-matter of my Bill has the approval of the Royal Commission on Indian Labour. The Government of India are also in communication with the Local Governments on this subject. I would, therefore, request the Member in charge of the Department, in view of the fact that my Bill will not have a chance of being circulated through the regular channel of the procedure of this Assembly, to circulate the Bill departmentally, so that the public may be able to consider the subject-matter of my Bill. Sir, I move.

The Honourable Sir Frank Noyce (Member for Industries and Labour): I would only say that I shall be very glad to comply with the Honourable Member's request to forward his Bill to Local Governments in continuation of the correspondence we have had with them on the subject.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That leave be given to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898."

The motion was adopted.

Mr. N. M. Joshi: Sir, I introduce the Bill.

*"Mr. Lalchand Navalrai to move for leave to introduce a Bill to remove the disabilities of the so-called depressed classes in regard to entry into Hindu temples."

† The Hindu Temple Entry Disabilities Removal Bill introduced by Mr. C. S. Rangas Iyer (*vide* page 2525 *ante*).

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur cum Orissa: Muhammadan Rural): Sir, I move for leave to introduce a Bill to amend the Child Marriage Restraint Act, 1929.

An Honourable Member: Is this not barred?

Mr. President (The Honourable Mr. R. K. Sānmukham Chetty): Though the subject matter of this Bill relates substantially to another Bill which has been moved in this House, I understand that this motion has not been made during this Session. Therefore, the motion is in order.

The motion was adopted.

Mr. M. Maswood Ahmad: Sir, I introduce the Bill.

THE MUSSALMAN WAKF VALIDATING (AMENDMENT) BILL.

Sir Abdulla--al-Māmūn Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Mussalman Wakf Validating Act, 1913.

The motion was adopted.

Sir Abdulla--al-Māmūn Suhrawardy: Sir, I introduce the Bill.

THE HINDU WIDOWS' RIGHT OF MAINTENANCE BILL.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, I rise to move for leave to introduce a Bill to fix the amount of maintenance to which Hindu widows are entitled. The Statement of Objects and Reasons sets out the aim of the Bill and I do not want to say anything further at this stage.

The motion was adopted.

Diwan Bahadur Harbilas Sarda: Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Rao Bahadur M. O. Rajah (Nominated Non-Official): Sir, I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

The motion was adopted.

Rao Bahadur M. O. Rajah: Sir, I introduce the Bill.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908. This Bill also follows the recommendations of the Royal Commission on Labour and the subject-matter has also been circulated by the Government of India to provincial Governments. I requested the Honourable Member in charge of the Department of Industries and Labour to circulate my Bill also and he has promised, I am glad to say, to circulate my Bill along with the subject-matter circulated by them to the provinces. Sir, I move.

The motion was adopted.

Mr. N. M. Joshi: Sir, I introduce the Bill.

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, I rise to move for leave to introduce a Bill to amend the Child Marriage Restraint Act, 1929.

The motion was adopted.

Mr. B. N. Misra: Sir, I introduce the Bill.

THE HINDU WIDOWS MAINTENANCE BILL.

Pandit Ram Krishna Jha (Darbhanga *cum* Saran: Non-Muhammadan): Sir, I rise to move for leave to introduce a Bill to provide for fixing the amount of maintenance to be awarded to the widows entitled to maintenance under the Hindu Law.

The motion was adopted.

Pandit Ram Krishna Jha: Sir, I introduce the Bill.

THE AJMER-MERWARA JUVENILES SMOKING BILL.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): Sir, I rise to move for leave to introduce a Bill to prevent juveniles in Ajmer-Merwara from smoking tobacco. Sir, this Bill is limited to Ajmer-Merwara. It is not for the whole of India, and as this is the Legislature for my province, I want to move this Bill.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I wish to oppose this motion.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Title of the Bill is not as the Honourable Member read it?

Diwan Bahadur Harbilas Sarda: The Bill itself says so, Sir.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Bill is to prevent juveniles from smoking. But the object of the Honourable Member is to prevent juvenile-smoking only in Ajmer-Merwara.

Diwan Bahadur Harbilas Sarda: Very well, Sir. I rise to move for leave to introduce a Bill to prevent Juveniles from smoking Tobacco.

Mr. B. Das: I oppose the motion. I consider, Sir, that this Bill is an encroachment on the liberties of the youth by the old people.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That leave be given to introduce a Bill to prevent Juveniles from smoking Tobacco.

The motion was adopted.

Diwan Bahadur Harbilas Sarda: Sir, I introduce the Bill.

THE NUDITY EXEMPTION BILL.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, I rise to move for leave to introduce a Bill further to amend the Indian Penal Code and the Indian Police Act, 1861.

Diwan Bahadur A. Ramaswami Mudaliar (Madras City: Non-Muhammadan Urban): Sir, I oppose the introduction of the Bill. I only want the House to realize simply this, that in section clause it is sought to provide as follows:

"Provided that nothing contained in this section shall apply to the case of any saint or religious ascetic who remains or goes about naked in obedience to the rules and practice of his order."

I want the House to realize how far the Hindu religion is sought to be entangled in such absurd proposals! (Hear, hear.)

Mr. B. N. Misra: Sir, there are things in the Hindu religion which my friend does not know of. (Laughter.) Nudity taken in the right sense and nude pictures taken in the right sense in Hindu temples have got their own value. People are allowed to have nude pictures and that is allowed by religion. Of course you will have to prove that when he does keep these nude pictures or observes nudity, he does so without the dictate of any religion or religious feeling in him, and then of course, if that is so, he may be punished, but if a man has done that out of religious feeling, then he should be allowed to do so. That is my plea. Sir, I move.

The motion was adopted.

Mr. B. N. Misra: Sir, I introduce the Bill.

THE REMOVAL OF DOUBTS ABOUT THE APPLICATION OF
THE DOCTRINE OF REPRESENTATION, IN CASE OF SUC-
CESSION TO STRIDHAN UNDER THE DAYABHAG BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill to remove doubts about the application of the doctrine of representation in case of succession to Stridhan under the Dayabhag.

The motion was adopted.

Mr. Amar Nath Dutt: Sir, I introduce the Bill.

THE INDIAN BAR COUNCILS (AMENDMENT) BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Bar Councils Act, 1926.

The motion was adopted.

Mr. Amar Nath Dutt: Sir, I introduce the Bill.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Division: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill to amend certain provisions of the Indian Penal Code relating to offences under Chapters VI and VIII of the said Code.

The motion was adopted.

Mr. C. S. Ranga Iyer: Sir, I introduce the Bill.

THE IMPERIAL BANK OF INDIA (AMENDMENT) BILL.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Imperial Bank of India Act, 1920.

The motion was adopted.

Mr. S. C. Mitra: Sir, I introduce the Bill.

THE ABOLITION OF CAPITAL PUNISHMENT BILL.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadian): Sir, I beg to move for leave to introduce a Bill to abolish the punishment of death for offences under the Indian Penal Code.

The motion was adopted.

Mr. Gaya Prasad Singh: Sir, I introduce the Bill.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

Pandit Ram Krishna Jha (Darbhanga cum Saran: Non-Muhammadan): Sir, I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908, for certain purposes.

The motion was adopted.

Pandit Ram Krishna Jha: Sir, I introduce the Bill.

THE HINDU TEMPLE ENTRY DISABILITIES REMOVAL BILL.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill to remove the disabilities of the so-called depressed classes in regard to entry into Hindu temples be circulated for the purpose of eliciting opinion thereon by the 30th July, 1933".

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Does this motion relate to a Bill in respect of which leave was given to the Honourable Member to move today?

Mr. O. S. Ranga Iyer: Yes, Sir.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The attention of Honourable Members must be drawn to the fact that this motion is a serious departure from the well established convention of this House. It has been established by convention and the convention has been repeatedly brought to the notice of the House by the Chair in the past that on the day, on which leave is sought to introduce a Bill, no other motion should be made. The Chair is no doubt aware that on this particular occasion the motion of the Honourable Member (Mr. Ranga Iyer), when he sought the leave of the House to make it, was opposed which was also contrary to the convention. In any case, the Chair will strongly deprecate the attempt on the part of Honourable Members to depart from the convention in either of these respects.

Mr. O. S. Ranga Iyer: Sir, in accordance with the convention which you stated just now, I do not want to depart very much from the spirit of the previous practice and, therefore, propose to confine my remarks to the Bill in as brief a form and manner as possible. Sir, it is unnecessary on this occasion to make a very lengthy speech. The foundation for the movement which this Bill refers to has been, thanks to the imagination of an usually unimaginative Government, laid in the Yerawada jail. I am grateful to the Government for enabling the foundation of a movement for the extirpation of the superstitions of this land in the Yerawada prison. That movement has been going from place to place; it has been moving from hamlet to hamlet and from village to village until the whole country has been caught up in one great conflagration to purify the Hindu community and to unify the Hindu community. I have no other object but to unify and purify this community.

[Mr. C. S. Ranga Iyer.]

My friend, the Raja Saheb of Kollengode talked of my thundering eloquence. At that time, Sir, we were hearing thunders outside. The Heavens had liberated the thunders in this thunderous weather for the annihilation of the superstitions of this land practised wrongly in the name of religion, because, true Hinduism has no place for them. I beg of my Muslim friends to support this motion, because elimination of untouchability is a part of Islam, the great religion preached by the Prophet of Arabia. I ask my Christian friends in this House to support this motion, because the living faith of the Jesus of Nazareth was to abolish untouchability.

Mr. O. O. Biswas (Calcutta: Non Muhammadan Urban): I understood my Honourable friend to say that he was not going to depart from the convention to which the Chair called his attention.

Mr. C. S. Ranga Iyer: The Chair called my attention to a convention. I am explaining now why I want the circulation of this Bill. I am not, while making a speech for the circulation of the Bill, taking as much time of the House as the Honourable the Raja Saheb of Kollengode was allowed to take when he violated the convention. (Interruption.) Sir, my friend, Pandit Ram Krishna Jha, says that it is a departure from convention. One departure from convention obviously leads on another departure. But I was saying that the Hindu religion has preached and practised

Raja Bahadur G. Krishnamachariar (Tanjore cum Trichinopoly: Non-Muhammadan Rural): I rise on a point of order, Sir, and I want your ruling. I am not going to dwell upon what is meant by what. The Honourable the President just now said that he deprecated Honourable Members traversing beyond the convention for whatsoever purpose it may be. I want your ruling whether it is or it is not a departure from the convention, because I understand the convention to mean that you must not speak anything for any purpose whatsoever.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Member want to speak on the point of order?

Mr. O. S. Ranga Iyer: No, Sir.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): The Chair understands the Honourable Raja Bahadur Krishnamachariar to have raised the point of order whether in view of the Chair's calling attention of the House to the convention, the Honourable Mr. Ranga Iyer is entitled to make the motion that he is making just now. On that point the Chair would draw the attention of Honourable Members to Standing Order 88 which runs thus:

"When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely:

* * * * *

(c) that it be circulated for the purpose of eliciting opinion thereon:

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made unless copies of the Bill have been so made available for three days before the day on which the motion is made, and such objection shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the motion to be made".

Under this Standing Order, the Honourable Member has been conferred the positive right of making this motion if he chooses to do so on the same day on which the Bill was introduced. If any Honourable Member raised a point of order that copies of the Bill were not made available to Members of the House three days in advance of the day on which such motion is made, then it would be for the Chair to decide whether the Standing Order would be suspended and the Honourable Member would be allowed to make a motion. The Chair understands that the Honourable Member Raja Bahadur Krishnamachariar does not raise any objection on that score.

Raja Bahadur G. Krishnamachariar: Not yet.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Copies of the Bill, the Chair understands, have been made available to Honourable Members three days before the motion.

Raja Bahadur G. Krishnamachariar: Sir, may I make a submission? That rule refers to a stage after introduction, and not before.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Since copies of the Bill have been made available to Honourable Members in time, according to Standing Order 38, the Chair has no right to prevent the Honourable Member, if he chooses to do so, from making such motion, because a positive right conferred by the Standing Order cannot be negated by the force of a convention.

Mr. C. S. Ranga Iyer: Sir, if the purpose of my Honourable friend, the Raja Bahadur, is that I should be brief, I propose to be brief. I must respect an old man like him. I ask Government to circulate this Bill and I will ask my Honourable friend, the Raja Bahadur, to keep his powder dry.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Motion moved:

"That the Bill to remove the disabilities of the so-called depressed classes in regard to entry into Hindu temples be circulated for the purpose of eliciting opinion thereon by the 30th July, 1933".

Raja Bahadur G. Krishnamachariar: Sir, I have strong objections against this Bill. I think, before I proceed further, you will allow me to cite a passage from a book which is quite *apropos* of the present condition and of the present attempts made on all sides in order to interfere with the even course of legislation.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair, which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury) amid loud applause.]

Sir, it has been said by this author Ludovici, who, I believe, is a well-known author:

"When things go wrong with the social structure of a nation through the general decline in the ability and stamina of its manhood, two distinct tendencies seem always to become noticeable. The one is to interpret changes which are merely the breakdown and decay of old and healthy institutions as signs of progress. In our era this is called evolution; and the other owing to the justifiable loss of confidence in the governing classes is for everyone, qualified or unqualified, to regard himself as entitled to make an attempt to put matters right".

[Raja Bahadur G. Krishnamachariar.]

Now, Sir, that tendency in the development of a nation is quite evident today from the numerous Bills that have been introduced and from the numerous motions of a similar nature that have been made which you have ruled out of order:

"Truth to tell, such a multiplication of nobodies far from producing somebody merely increases and complicates the already existing muddle".

That is exactly the position that has been created by the introduction of these Bills. Who wants these Bills? I have not got the flight of eloquence of my Honourable friend, Mr. Ranga Iyer: I am a plain man with a knowledge of plain English, and I respectfully ask, in plain English, who wants this Bill? Now, I will call upon Dr. Ambedkar to reply. He says the depressed classes do not want it. He says that distinctly.

Rao Bahadur M. C. Rajah (Nominated Non-Official): He does not say that.

Raja Bahadur G. Krishnamachariar: I want to be allowed to go on and I decline to be interrupted by anybody. What I say is that Dr. Ambedkar says that the dispute is not between the depressed classes and the caste Hindus, but the dispute is between Mr. Gandhi and the high caste Hindus. If anybody joins issue with me upon this particular issue, I have here Dr. Ambedkar's statement printed in a newspaper in which he says that the dispute is between Mr. Gandhi and the high caste Hindus. Now, I respectfully ask, what are the credentials of Mr. Gandhi to interfere in the Hindu religion? I am very sorry to put that question. He is not a Mahatma; I decline to call him a Mahatma. He himself says he is not a Mahatma,—people unfortunately thrust that title on him,—and if I am asked the reason why I decline to call him a Mahatma, I have got the authority of a book which as Hindus at least they will hold as sacred, and that is the Bhagabat Gita:

*"Bahunam Janmamante Jnanavan mam prapadyate :
Vasudevah sarvamiti Sa Mahatma sudurtova"*.

The Lord Krishna defined what a Mahatma is as above, and he is certainly superior to those gentlemen who shout "Mahatma" in spite of the express desire of Mr. Gandhi not to call him a Mahatma. Gandhiji himself wanted to be called and, I think, he will be more respected if I call him by that name. And I respectfully ask here and I challenge anybody to say, what right has he got to interfere in a question like this? (Interruption by an Honourable Member) I do not want to be interrupted. I think it is a very pernicious habit that people who do not agree with the speaker should interrupt like this and thus make him to lose the thread of his argument. What do you gain by this? I am not going to yield and I am not going to sit down until I have said what I have to say. (Interruption by an Honourable Member.)

Mr. Deputy President (Mr. Abdul Matin Chaudhury): Order, order. I hope Honourable Members will allow the Raja Bahadur to proceed with his speech.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadian Rural): If he challenges other Members they are certainly entitled to contradict him.

Mr. Deputy President (Mr. Abdul Matin Chaudhury): Other Members will have an opportunity to speak.

Raja Bahadur G. Krishnamachariar: I will tell you the reason why I put that question. Four years ago, Gandhiji went round Southern India on a subscription collecting tour. The Nattukottai Chettys, a very religious class and the class that built or repaired most of the temples of Southern India within their few villages, contributed Rs. 40,000. Gandhiji came back to Madras and what did he say about the temples which these Chettys hold sacred? He said, the temples of Southern India are so many brothels, and deserve to be demolished. Gandhiji gives the name of Harijans to his pet depressed classes. I think it is rather an insult to other persons to call one individual community Harijans. But the point is, why does he, in trying to uplift his pet Harijans, allow them to be introduced into brothels? (Laughter.) The temples may or may not be brothels, but Mr. Gandhi, in his imagination inside the Yerwada Jail, thought of an extremely good project to ruin his Harijans by making them go into brothels, because brothels are not particularly places where you can worship God or uplift the character.

An Honourable Member: Who conducts these brothels?

Raja Bahadur G. Krishnamachariar: Ask Gandhiji, but take it I conduct these brothels. (Laughter.) I am a brothel-keeper. If my temple becomes a brothel, I am not ashamed to confess that I conduct a brothel and I am a brothel-keeper. Only I do not belong to that class that skulk on one side of the temple and go and abuse the temple on the other. I am a plain, honest and straightforward man. My temple is not a brothel; Gandhiji says it is a brothel. When I am asked who keeps the brothel, I say, I keep it and I am not ashamed to do it.

Mr. C. S. Ranga Iyer: May I ask my Honourable friend from where he got his quotation? I think it looks very much like a misquotation.

Raja Bahadur G. Krishnamachariar: I got the quotation at the time from a newspaper and I challenge anybody, I challenge Gandhiji himself, to say that he did not say this. Sir, unfortunately for Gandhiji he is changing his opinion from day to day. It is not his fault. Probably we live and learn. At one time, during that same trip in Madras, he said he has never studied the Hindu Shastras. In fact he said he did not care for them. There is a book written by an Englishman, and another of the name of Parakh. Unfortunately I have lost the newspaper cutting somewhere. In that book, it is stated that the *Hinduism* which Gandhiji believes in is not the Hinduism that is ordinarily believed by the Hindus. It is something about a soul soaring upwards and from there to somewhere else soaring and soaring until it loses itself either in heaven or in the other place. That, Sir, is his Hinduism. You do not believe in Hinduism as it is understood, as it is practised in the present day. You believe the temples are brothels. Then, may I respectfully ask in that imaginative mood described by the Mover, why do you trouble about these brothels and why do you want to take your Harijans there? I do not ascribe any motives to the British Government, but cynics have been saying and it is absolutely difficult for one to get rid of the impression with reference to the activities of Mr. Gandhi in the jail. My Honourable friend, the Home

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Member, said that the permission given to him to interfere in matters of this sort could not be given to any others. This may be, because he would otherwise interfere in politics. It is, therefore, just as well to leave him to have his own way in this untouchability sphere; he is not going to succeed, and so far as the Government are concerned, the bother would be over and there would be no longer any trouble by him. Well, that may be the reason or may not be the reason, but we will continue to put that question until a satisfactory reply is given—and no question is settled until it is settled aright—as to why this gentleman from inside the jail should be allowed to interfere in a matter which, Government admit, is interference with religion. Why should he be allowed to drive a wedge into the Hindu community upon the pretence—I say it advisedly—of uplifting the depressed classes? Sir, does the question of the uplift of the depressed classes solve itself by allowing those gentlemen to go into the temples? As I said, Dr. Ambedkar is perfectly plain on that question—the question of temple entry may or may not come, but that is not the question which troubles the Depressed Classes—the real question is what my friend, Rao Bahadur Rajah, for whom I have a great regard, because he is Secretary of my Party. He stated, “When a good thing is coming, why not take it, whether the classes want it or not?” That is a perfectly reasonable point of view. I will do exactly the same thing. If somebody offers me, on my way home from the Assembly, Rs. 10,000, I will certainly accept it and take it in my car. Rao Bahadur Rajah says, when there is a good thing worth having, why should he not try to demand it and take it? I quite understand that, but I say that the uplift of the Depressed Classes in no way depends upon it and here again Mr. Ambedkar is my witness.

Now, Sir, in the Statement of Objects and Reasons which my friend,

4 P.M. Mr. Ranga Iyer, has framed—he did not spend much of his eloquence over this and, if he did, I could not follow him—he

says:

“The custom of segregation of certain Hindu classes as outcaste and untouchable and the social and other disabilities they suffer under in consequence of such custom, have been the subject matter of universal condemnation”.

In the first instance, this is not a custom. This is an injunction based upon religion. I do not propose to go into that at this stage. I want to indicate when opinions are collected, to persons whose opinions may be asked, so that their minds may be directed to these points and not a mere general question as to whether you like the temple entry or not. It is not a custom which calls these people untouchable, but it is a provision in the holy books which we regard as holy—there may be some gentlemen who may not regard them so—for over 5,000 years. Then he says:

“There has been continuous agitation on the part of the leaders of these Depressed Classes, as they have been commonly called, as well as on the part of reformers, among the main body of Hindus, to put an end to this custom of untouchability and to the disabilities arising therefrom”.

I admit that so far as the question of the removal of their disabilities depended upon economic conditions and those are the only conditions upon which their present unfortunate position rests—everybody is at one with this view. Mr. Gandhi asked the question: “What did the caste Hindus do for these Depressed Classes?” It is very easy to ask him a question: “What did he do? What did his huge following do? What did he do

out of the Tilak Fund of 70 lakhs of rupees that was at his disposal, so far as the special uplift of the Depressed Classes is concerned?" Now, as a very humble member of my community, I may tell him that the better class of landholders in my district have been providing the Depressed Classes with social amenities within the bounds of their own resources. We are not ourselves overflowing with resources down south in our land, but there is one thing which is perfectly clear and that is that we cannot get on without the Depressed Classes and these Depressed Classes cannot get on without us, and what is the proof of that? Fifteen years ago, the Madras Government, egged on by agitators like those friends who now want to have this temple entry, started a Labour Department. If you start a Labour Department, you want to give them some work. The first work they started doing was to tell these Depressed Classes that they will acquire houses for their living, for the Depressed Classes have no houses of their own and the house sites in the villages are not their own; these belong to the land-owning classes, that is the *mirasdars*, and there they build houses for them as long as they serve, and when they become old they are allowed to live there and die. Now, Sir, this Labour Department said: "We are going to acquire these sites for you" and they did it. Of course the Depressed Classes paid all the amount that has been spent up to that time, and not the Government, about 50 or 60 lakhs of rupees, but the Government would not spend it. It is the Depressed Classes that were made to spend. They had to deposit 50 per cent. and then the whole machinery of the Land Acquisition Act would have been set in motion and when the house sites would be acquired sometime later, they would have to pay the balance. They did this, not knowing whether it is going eventually to succeed or not, but one thing it has succeeded in, and that is, it has antagonised the master under whom the Depressed Classes have got to serve. The result was that special facilities were withdrawn from them by their master. Then they withdrew though Government told them that they would forfeit the deposit that they have already made. They said all right and joined us, and, Sir, why did they do it, because men like myself gave them back their deposits in spite of the fact that Government took the money without any justification whatsoever. I do not want to make a catalogue or make a boast of what we did and the list of other things that we have been doing. If you look into our accounts, you will find that year after year several pages of ledger showing monies lend to these Depressed Classes which till doomsday could not be recovered. Where is the poor fellow going to return the money from? We have paid the money and there it is.

Mr. O. S. Ranga Iyer: Money lending Bill.

Raja Bahadur G. Krishnamachariar: If you go into the villages, you will find it for yourself. Sir, he has no land. He has got to go inland and see for himself how they till the land and how they toil and moil for a day's meal. If you merely cool your heels going between Delhi and Simla, you cannot know anything. Then it proceed:

"Public agitation is specially focussed on the exclusion of these classes from entry into the ordinary Hindu temples along with caste Hindus".

Now, Sir, that is a misstatement. I want you to go ten miles further into the interior of any town in Southern India and you cannot find half a dozen persons, members of the Depressed Classes, who will say: "We

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want to enter into the temple." On the contrary, they will fight shy of these temples and they do not want to enter these temples. I say that the entry by these gentlemen into the temples would desecrate these temples. There is a little question that I should like somebody, who supports this Bill so enthusiastically, who shouted and struck on their tables until one's voice was drowned, to answer this very simple question. In the temples there are idols which we worship. Mr. Gandhi, while he believes in idol worship, does not believe in idols: this statement is in the same book I referred to. What that means I do not know: I am not a master of the English language: he says: "I believe in idol worship, but I do not believe in idols". I do not know how, but if you do not believe in idols, where does idol worship come in? However, that is a matter in the mysterious knowledge of Mahatmas, among whom I do not class myself. The question that I wanted to address my friends on the other side is this: in the temples we have got stone images; we have got brass images; some of them look very nice; some of them are so old and worn out that, were it not for the fear that the sanctity would disappear, they would all have been removed by this time. Now, if you go into a museum, whether in Calcutta or Madras or Bombay, I do not care where you go, you have got the most beautiful sculptured stone images and the best cast brass and bell metal images. I ask my friends, why do not the Depressed Classes go there? You only want to worship, and these images are not mere nude images of the kind that my friend, Mr. Misra, wanted to allow: they are the images of gods and goddesses. Why do you not go into the museums and worship those images? No. The Brahmins never built a temple: the Brahmins had never the resources to build a temple. It is the king who built the temple: it is the king who got out all these images; it is the king who brought them and put them in these places. Having done that, though it is still in the temple, it is still not an image which is entitled to be worshipped. Then, unfortunately, he had to call in this brothel keeper, the Brahmin—not Mr. Jadhav—but he had to call in this brothel keeper, and what does this brothel keeper do? He turns his book and he sees a whole chapter in which he finds that if you perform a *homa*, if you perform a prayer, if you mumble these verses from the Vedas, Godhead will appear in that stone. Then he begins; he collects a lot of people; he performs sacrifices, this *homa*, and he recites these *mantrams* and he goes on for eight or ten or fifteen days or three weeks; and then, at the end of it, he says "Godhead has come". Godhead is present in the idol. Everybody begins to worship. Sir, are you sure that the Brahmin has not deceived the whole lot? They did not at least believe it in the olden days: they said: "Yes, if the Brahmin says that Godhead has come after all these ceremonies, Godhead is there". Why? Because the book says it. I do not say it. The Book says it. And then the same book says that Godhead has come after the consecration and after the performance of the ceremonies. You turn to the next page it lays down that if an untouchable enters the temple, Godhead disappears. Well, you believe the first portion of the book which says that Godhead has come, and you disbelieve that portion which says that Godhead has disappeared. May I know what that reason is? Both things are in the book. If you can, without the help of those books, bring Godhead into existence, then disavow the book: I can understand that . . .

An Honourable Member: What is that book, may I know?

Raja Bahadur G. Krishnamachariar: The books are the *Agamas*, the Saiva *Agamas* and the Vaishnava *Agamas*, according to which a temple has got to be built with a certain configuration, with certain *gopurams*, with certain gateways facing the east, west, north and south, and the whole lot of it is prescribed there in the minutest detail; and after the consecration certain communities are not allowed to enter, certain communities are entitled to go in; and would you believe it, Sir, that I and other Brahmmins in certain stages of pollution will not be allowed to enter the temples until the pollution ceases? That is the position with regard to temples. They have got to be built according to the conditions laid down in these *Agamas*; and the rules and regulations of *puja* and the rules and regulations about the spot up to which Hindus can go are all laid down in that book. Unless you conform to that book, it is not a temple; and it is no new principle. I believe it will be admitted on all hands that where an institution is brought into existence by the force of a statute, unless the conditions laid down in that statute are fulfilled, that institution ceases to be what it professes to be and for what it was brought into existence. I will only cite one instance: that in the Allahabad High Court—I believe in I. L. R. 12 Allahabad—there is a case of *Queen Empress v. Ganga Ram*: a man was accused of murder and the case was sent up for a referred trial: there was absolutely no ground; but Mr. Charles Alston, now Sir Charles Alston, raised a point that one of the Judges of the High Court had not been properly appointed—Mr. Justice Burkett; and the Full Bench heard the case for four days and they came to the conclusion that the appointment was not properly made and that, therefore, there has not been a properly constituted bench and, therefore, the appeal could not be heard. I cited that for this reason that if a body had been brought into existence by virtue of a statute, the provisions of that statute have got to be fulfilled to the very letter, otherwise, it may be any institution you like, it is certainly not the institution that you profess it to be. Of course the Judges of the High Court tried to get over this difficulty; but when they found that the men who had been hanged under the orders of Mr. Justice Burkett could not be brought back to life, they said there must be some rule or another of which they were not aware which justified the Government of India in appointing this gentleman. However, that is the position with regard to temples. Further, the statement of Objects and Reasons says that a Hindu temple is a public place of worship to which all have access. That is not so. For instance, among the Muhammadans I believe all castes can go provided you conform to certain rules: for instance, you remove your shoes and you wash your legs and hands and then you go there and can even stand along with the congregation, but even this is not universal. Among the Hindus, there is no congregational worship. I believe among the Muhammadans and Christians there is what is called congregational worship. Among the Hindus worship is individual; each man goes into the *sanctum sanctorum*; he worships and comes back and, in this matter, there is a great deal of difference between various provinces of India. In Bengal, for instance, I believe there is very little distinction between the ordinary and the Depressed Classes; and provided a man is decent and does not provoke any suspicion he goes inside. Another thing, I believe, which obtains both in upper India as well as up to the Deccan is that those who go to worship in

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the temple touch the image of the god and his feet and then they worship : we dare not do that in Southern India. In Southern India there is the *sanctum sanctorum*, and there is a doorway inside that doorway : no one can go, not even the most holy ascetic or the greatest of Matadhipatis who have a lakh or two lakhs of disciples. If they want to take the *prasad*, they have got to remain at the doorway, and the *archaka* or the man who does the *poojas* inside the *sanctum sanctorum* brings the holy water and gives it to the ascetic. If the ascetic does not want to take it, he is not at all compelled to come into the temple. That, Sir, is the position with regard to the temples, so that, what applies to Southern India, does not apply to the Deccan, what applies to the Deccan does not apply to the U. P., and, certainly, what applies to the U. P. does not apply to Bengal. Therefore, there is no use in confounding the one province with the other and saying "Oh, we are doing it here, why shall we not do it there". I may relate a small incident that happened some years ago. One of the ladies of the Nepalese Royal family came to Srirangam and there was almost bloodshed within the precincts of the temple, because this lady, without understanding the rule, wanted to touch the feet of the idol and the priests did not allow it.

There is another matter on which stress is laid, and it is this. It is stated that they do not want to interfere with religion, it is a permissive Bill. I know how these permissive Bills have got a vicious habit of transforming themselves into compulsory Bills. But what is stated by our friends is that they merely intend to remove an impediment created by the law administered by the British Indian Courts. Whoever put that sentence to paper, unfortunately failed to read, or having read forgot, or having forgotten, relied upon the laziness of other members and made this statement, because if you refer to these cases, what do they rely upon? They rely upon the fact that the temple entry could not be allowed, because it is against religion. So that, Sir, it is arguing in a circle. These gentlemen say that they merely want to remove the impediments created by the British Indian Courts, but you come back to the same thing. Either it is prohibited by religion or it is not. If it is not prohibited by religion, then come out in the open and say so. Do not deceive people by saying you do not want to interfere with religion, only the law that has been passed by the British Indian Courts which has made the Depressed Class people to enter the places of worship requires to be changed. That is the position taken up by our friends here, as if the temples belong to the trustees or their ancestors. The temples do not belong to the trustees, and if you will look into the Religious Endowments Act, the old Act of 1863, or the one which they recently enacted in the Madras Presidency, you will find that the trustees have been authorised to be appointed for the purpose of protecting the properties. There is a distinct provision in the Madras Act,—there was a distinct provision in the rules framed under the old Act of 1863,—that neither the trustees nor the members of the committee who used to sit over them and who had jurisdiction over the whole of a district cannot interfere with the rites or the course of the *poojas* in the temples. Certain gentlemen who call themselves reformers wanted to show their right and tried to interfere with the inner direction of the course of the *poojas* in a temple. The result was, suits were filed and they went up to the Madras High Court, and these gentlemen burnt

their fingers. After that, they found that being a trustee does not entitle them to play ducks and drakes with the temple so far as the internal arrangements of the *poojas* are concerned. They are certainly entitled to look after the property, and that is all they are entitled to. Therefore, the private inclination of a man who has been appointed under the statute as a trustee, whose powers are circumscribed and described in full detail, cannot, by any act of his own volition, go beyond the four corners of the Act, and say that, since he is in possession of the temple, he will allow Depressed Class people to enter the temples. He cannot do it. The Statement of Objects and Reasons says as if he has got the right to do it, but nothing of the sort.

Another most important thing is, it is a somewhat tragic thing too. there is a provision made in the Bill for local option. Sir, I have understood in the olden days when I had to do something both with the framing as well as the study of the Municipal Act, that if you want to open a toddy shop, there is such a thing as a provision for local option. I did not think that in any God's sanctified place the question of local option would be brought in. Whose is the local option? Who are the members residing there? All communities, Hindus, Christians and Muhammadans, and every one of them will say: "Oh, I want to go into that temple", and you say "what a very bad thing it is, you have been very much tyrannised, and so you can go into the temple now". Result, an institution which had been in existence for time immemorial is going to be desecrated by introducing local option just as the municipality wants to open a toddy shop in a certain place, and some people saying: "Oh, not here please, but you can open it in another locality", and thus the whole thing is decided. Have you ever heard of an absurdity like this? Temple entry, religious worship and local option—put these things in juxtaposition, and you will see the absurdity of the whole thing.

Lastly, the point is that all this agitation is not with the idea of going into the temples, worship there and thus get God's mercy. Otherwise, as Kabir said: "They all say that you are in a temple; if you are only inside a temple, who is there outside the temple",—this is what Kabir asked. It is not a question of their wanting to worship. It is purely a political stunt, and I say it without any fear of contradiction. You remember, Sir, the fast that Gandhiji undertook, because he found that, if the Depressed Classes went out of the Hindu community, they would become a very small minority. He fasted, whether for good or evil, he was able for the time being to bring the depressed and the Hindus together, but unfortunately as fates would have it, the very next moment he spoiled the full effect of his fast by driving a wedge through the Hindu community by introducing this Temple Entry Bill. Now, as far as human memory can go, these gentlemen never entered a temple. What was the urgency for this Bill? Why could you not wait for another six months? We could certainly have waited until the new reforms came when there would be 375 Members here.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

Those new Members may be less educated or they may be more educated than our present Members, and then you can always work upon their sentiments, get into the temples, desecrate them and try to become

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tone with the result that you justify the prophecy of our *rishis* that as the Kali Yuga goes on, everyone will become one without any distinction whatsoever. So why don't you wait till the new reforms come in? What is the hurry for this Bill? Mr. Gandhi wants this measure, and what is worse is, his henchmen come here and go about—unfortunately they have got the control of the Press,—and launch their attack against the unfortunate man who has got to oppose it. What do they say? Ever since I had the honour of being elected to the Assembly, I have been trying to get through two or three Bills of mine to be brought to the stage of discussion, but so far I have not succeeded. I got a chance last time, therefore, I got up and pressed my point. I was supposed to have obstructed the introduction of this Bill. I was called an obscurantist. I have looked into the new Oxford English Dictionary, and there are three lines given to the meaning of that word. Every one of the meanings has been ascribed to me and the dictionary has been exhausted. But it does not affect me in the least. Although, so far as I am concerned, I am not going to yield the chance that I got in order to push forward the Bill that I was very anxious about, my Honourable friend will bear me out that so far as his real motion is concerned, namely, that the Bill be circulated for eliciting opinion thereon, I had no intention to oppose it. I have been protesting against it, and the orthodox community, the mass of the Hindu population are quite orthodox in their heart of hearts and, therefore, if the opinion is taken, my side will get a very large majority of opinion against this temple entry and so I am not afraid of it. But that does not mean that I should lose the chance of pushing through my Bill. And, Sir, my greatest sin is that I wanted to do that, taking advantage not of what I tried to do, but of what the ballot gave me—taking advantage of that chance before these gentlemen came on the scene. That being the position, I respectfully submit that in sending out this Bill for opinion, certain principles enunciated by Mr. (afterwards Sir James) Crerar, who was Secretary to the Government of Bombay in 1921, in asking for the opinion of the public at large should be borne in mind. Fortunately for us, His Excellency the Viceroy has said that he would himself address the Local Governments that every possible avenue should be explored in order to make the opinion as wide spread as possible. In connection with a Bill introduced by my Honourable friend, Sir Hari Singh Gour, in 1921, this is what the Government of Bombay say:

“The most important consideration, therefore, is whether the principle of the Bill has secured the support, or is likely to secure the support of a sufficiently large majority of the Indian public. That it has secured such support cannot at present be admitted, as there has been no referendum to the people on the issue. Whether it is likely to secure such support can only be decided when there has been sufficient opportunity for the expression of opinion. I am to observe that the opinion actually obtained by the Government of Bombay are fairly evenly divided, but I am also to observe (*and this is the point*) that these opinions have been sought for in quarters likely *a priori* to be most favourable to the Bill, *viz.*, among some of the most enlightened and advanced elements of the community and amongst those who are most likely to be influenced by considerations of legislative theory rather than by sentiment or religious conviction. There can be little doubt that effective support of the Bill will come from a very limited section of the community. For their enlightenment and desire for progress Government must have every consideration and sympathy. On the other hand, Government must consider closely their own position and that of the general public. It would, in the opinion of the Governor in Council, be a dereliction of duty on their part to support legislation so fundamentally affecting the prejudices and sentiments of a vast majority of the population without the clearest and most convincing proof that not only will such legislation be acceptable but that it is urgently demanded”.

Those are the principles I would respectfully invite the Government to bear in mind when they send for opinions, and if they do that, I have absolutely no fear of the consequences.

There is one thing that I should like to observe, and that is that the date has been fixed for July, 1933. I do not know if I will be in order when I suggest that instead of July, the 31st December, 1933, be substituted. If I am not out of order, I would suggest that that date be substituted. (*An Honourable Member*: "There is an amendment to that effect.") I did not know that there was an amendment. It saves me so much time. For these reasons, although I support the motion for circulation, I would respectfully submit that, in calling for the opinions of people, those points may be borne in mind and specifically brought to the notice of persons whose opinions are being sought.

An Honourable Member: The question may now be put.

Mr. S. C. Mitra: I support my Honourable friend, Raja Bahadur Krishnamachariar, when he supports this motion for circulation. The present motion is for circulation in order to elicit the opinion of the public on this Bill. We have heard of the tyranny of the majority, but I think you will protect the House from the tyranny of the minority also. We on this side of the House who always stand for consulting our constituencies, I hope, will not raise any objection to this motion. When we have got the opinion of the country, it will be time for us to consider the pros and cons of this particular Bill. Sir, I support the motion.

Pandit Ram Krishna Jha (*Darbhanga cum Saran*: Non-Muhammadan): Sir, I move the following amendment:

"That the Bill be circulated amongst the heads of the Religious Institutions, secular heads, trustees or administrators of the village temples in consultation with the Hindu villagers and Collectors of Districts for ascertaining the opinion of lay people likely to be affected by this Bill and not amongst the Arya Samajists, the Brahmos and Hindu Mahasabhaists who have no faith in temple worship".

Sir, the reasonableness of this amendment is clear. If you do not attach any importance to a thing, what does it matter whether A goes or B goes, or whether A is prevented, or B is prevented? In fact, I have heard something about the Guruvayur referendum. I am told by a gentleman who happened to be there, that the referendum was taken in a peculiar manner. One man signed seventeen persons' names. What did it matter to him whether the referendum was on this side or on that side? Look at the position of the Arya Samajists. They do not believe in temple worship. Since Swami Dayanand promulgated his creed, from that time they have been against temple worship. What does it matter to them if they are consulted? They will say: "There is no harm in signing for the entry". My submission is that you must consult only those people whose vested rights you are going to take away. If the object is to obtain the opinions of only those persons who are likely to be affected, then the Arya Samajists and the Brahmos, who have no faith whatever in the Hindu temple worship, should not be consulted. Similarly, there may be people living in the municipality or in the neighbourhood who attached no importance to the temple. They may not be Arya Samajists, or Brahmos, but all the same they do not attach any importance to the temple worship. They are not, as we call it, temple-goers, and how will you be benefited if you get the opinion of those persons? The opinion of these people is worth nothing. So, my submission is that the Bill, as it is going for

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circulation, must be circulated only among the persons I have mentioned in my amendment, and that the Arya Samajists, Brahmos and Hindu Mahasabhaitees should not be consulted.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That the Bill be circulated amongst the heads of the Religious Institutions, secular heads, trustees or administrators of the village temples in consultation with the Hindu villagers and Collectors of Districts for ascertaining the opinion of lay people likely to be affected by this Bill and not amongst the Arya Samajists, the Brahmos and Hindu Mahasabhaitees who have no faith in temple worship".

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member spoke in the vernacular*).

Several Honourable Members: The question may now be put.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty):

5 P. M. Order, order. It is the usual practice of the House to adjourn at about 5 o'clock, but the Chair in the past has expressed its willingness to sit late if really it suited the convenience of the Honourable Members. (*Honourable Members:* "We would like to sit late as this is the last non-official day of the Session.") On the 15th February, 1926, the Chair made the following observations:

"On non-official days, the Chair endeavours, as far as possible, to accommodate the non-official Members and consult their convenience before adjourning. On official days the Chair endeavours to treat the official Benches on the same principle. In the absence of any instructions from either side of the House on any particular day, the Chair uses its own discretion and adjourns the House at such hour as it considers proper having regard to the state of business for that day. Generally speaking, the Chair is always anxious to consult the convenience of the House and shows its readiness to sit even very late hours irrespective of its personal convenience".

The Chair is prepared to follow the same practice that was adopted by its predecessors and, especially in view of the fact that today is the last day for non-official Bills in this Session, the Chair would not mind its own personal inconvenience if it is the desire of the Non-Official Members on this occasion that the House should sit a little late. (*Several Non-Official Members:* "Yes, Sir, we all wish to sit late.") Will Honourable Members who object to sitting late kindly rise in their seats? The Chair would like to point out to the Leader of the House that in this particular case, in accordance with the observations made by its predecessor, the Chair would consult the convenience more of the Non-Official Members.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, I am bound to bring to your notice one fact that there is an important meeting of the Executive Council fixed at six o'clock.

Mr. O. S. Ranga Iyer: May I put it to the Honourable the Leader of the House whether in view of our desire not to leave this discussion on the Bill in an unfinished condition he will be willing to allot half a day on an official day or a full non-official day so that we may finish this subject? I quite agree that the programme of the Executive Council is important, but I beg of him in view of public opinion outside to complete the discussion on this motion.

* A translation of the speech will appear in a later issue of these debates.

The Honourable Sir Brojendra Mitter: In view of the unfinished official business, it is absolutely impossible to allot another day.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): If it is the desire of the Non-Official Members that they should sit late and if we decide to sit till quarter to six, would that suit the convenience of Government? The Chair quite realises that Government Members have got an Executive Council meeting and they should certainly be given a chance. Would it suit the convenience of Honourable Members if we decide to sit till 5-45?

The Honourable Sir Brojendra Mitter: I have no objection to that.

Mr. President (The Honourable Mr. R. K. Shanmukham Chetty): Will those Non-Official Members who object to sitting late kindly rise in their seats?

(20 Members rose in their seats.)

Those who want to sit late will kindly rise in their seats.

(21 Members rose in their seats.)

Order, order. The Chair made it perfectly clear that it will see to the convenience of Non-Official Members on this occasion. And if it is really the desire of a majority of Non-Official Members that this Bill or at least this motion must be finished today, there must be a predominant opinion to that effect. But, taking a count, the Chair finds that 20 Members are opposed to sitting late and about 21 Members are for sitting late. In those circumstances, the Chair does not think that it can take upon itself the responsibility of forcing a discussion on this House.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 25th March, 1933.