

*Wednesday,
18th March, 1914*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. LII

April 1913 - March 1914

ABSTRACT OF PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

From April 1913 to March 1914.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909
(24 & 25 Vict., c. 67, 55 & 56 Vict., c. 14, & 9 Edw. VII, c. 4).

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Wednesday, the 18th March, 1914.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,
G.M.S.I., G.M.I.E., I.S.O., Viceroy and Governor General, *presiding*,
and 58 Members, of whom 50 were Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Das asked :—

1. (a) Will the Government be pleased to give the total number of Indian Christians (Roman Catholic and Protestant) irrespective of denomination or sect? Number of Indian Christians and their education.
- (b) Will the Government be pleased to state whether any special provision is made for the education of Indian Christian boys and girls with a view to meet the educational needs of the community?
- (c) If any special provision has been made, will the Government be pleased to state the nature of such provision and the place or places where the facilities of such special provision are available?

The Hon'ble Sir Harcourt Butler replied :—

- (a) The number of Indian Christians in all India is shown in the Census of India of 1911 to be 3,574,770.
- (b) and (c) It is understood that special provision is made in certain places for the education of Indian Christian boys and girls. But the Government of India have no precise information on the point.

The Hon'ble Mr. Das asked :—

2. (a) Has the attention of Government been drawn to the proceedings of Gope Jate Mahasabha (a Conference of the Gope or Ahir caste), which met at Purnea on the 27th, 28th and 29th of December, 1913, and the proceedings were published in the *Abhir Samachar*, dated 15th January, 1914? Ahirs and their education.
- (b) Is it the intention of Government to give facilities for education to boys of the Ahir or Gope caste in the manner described in the 12th resolution

[*Mr. Das ; Sir Harcourt Butler ; Maharaja Manindra Chandra Nandi ; Mr. Clark.*] [18TH MARCH, 1914.]

of the proceedings, or in any other manner, which Government considers suitable to the requirements of this community ?

"(c) Will the Government be pleased to lay on the table a statement giving information on the following points :—

- (i) the number of Ahirs in each of the Provinces of India.
- (ii) the percentage of literate men among men in the Ahir caste in each province."

The Hon'ble Sir Harcourt Butler replied :—

"(a) and (b) The Government of India have not seen the proceedings of the Conference alluded to. They are therefore not aware of the contents of the 12th resolution of the Conference. Nor are they aware of any intention on the part of Local Governments to provide special facilities for children of the Ahir caste apart from the general facilities provided for the education of all.

"(c) The information is to be found in the Census of India, 1911, by the Hon'ble Mr. E. A. Gait."

The Hon'ble Maharaja Manindra Chandra Nandi asked :—

Re-organiza-
tion
of Traffic
Department
of the
N.-W. R.

3. "(a) Is it a part of the scheme referred to in the official communiqué which appeared in the Press in August, 1912, regarding the re-organization of the Traffic Department of the North-Western Railway that a Commercial Department should be introduced on the said Railway ? If so, will Government be pleased to state what has been done since the date of the communiqué towards the establishment of such a Department ?

"(b) Is it a part of the scheme referred to in the said communiqué that a considerable number of Indians should be appointed in the said Commercial Department in the superior grade ? If so,

- (1) Have any steps been taken with a view to carry out the scheme ?
- (2) Has it been settled what class of Indians will be eligible for these appointments ?
- (3) Is it proposed to invite applications openly by advertisement ?
- (4) Has the number of appointments to be created in the Department been settled ? If so, how many ?
- (5) Has the number of Indians to be appointed in the Department been settled ? If so, how many ?
- (6) Have any Indians been appointed ?

"(c) Has any date been fixed for the coming into operation of the scheme of re-organization referred to in the communiqué ? If so, what is the date ?"

The Hon'ble Mr. Clark replied :—

"The introduction of a Commercial Department on the North-Western Railway is under consideration, and since the communiqué referred to was issued, considerable progress has been made in working out the details of the scheme. It is not, however, possible at the present stage to give the information asked for in the latter part of the question."

The Hon'ble Maharaja Manindra Chandra Nandi asked :—

Names of
Indian
Assist-
ant Traffic
Superin-
tendants.

4. "Will the Government be pleased to lay a statement on the table giving the names of Indians appointed as Assistant Traffic Superintendents on Indian Railways since 1909, together with their educational and other qualifications ?"

The Hon'ble Mr. Clark replied :—

"I place upon the table the statement* asked for by the Hon'ble Member."

[18TH MARCH, 1914.]

[Sir Reginald Craddock.]

THE INDIAN CRIMINAL LAW (AMENDMENT) BILL.

The Hon'ble Sir Reginald Craddock :—“I move for leave to introduce a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898. The Bill deals with a particular class of contempts of Court which is either totally unprovided for in this country, or else is not provided for in a clear and satisfactory manner. The power to punish contempts committed in the face of the Court is a necessary incident to every court of justice. It is not from any exaggerated notions of the dignity of individuals that judges are thus protected, but because it is essential in the interests of the administration of justice. This class of contempt is covered by the existing provisions of the Indian law. There is however another class of contempt of an equally serious nature, and perhaps under modern conditions even more dangerous to judicial administration. I refer to speeches or writings tending to defeat the ends of justice. Contempts of this nature consist either in what is known in English law as ‘scandalising the Court’ or in abusing parties and others concerned in the proceedings, or in creating prejudice for or against those concerned in the case. Such contempts may be more dangerous than those committed in the face of the Court, for they may obtain far greater publicity, and are not subject to immediate check by the presiding officer. The Indian law cannot be said to be in a satisfactory condition as regards this class of contempts. The chartered High Courts have doubtless the power to deal with such contempts in regard to their own proceedings; but whether those Courts have the power to protect the inferior Courts within their jurisdiction is at least doubtful. The Madras High Court in the case of *Re Venkata Rao* held that it possessed this power; but the Calcutta High Court in the case of *King-Emperor vs. Girindra Mohan Das* took a much less favourable view of its powers in this respect. Judicial opinion is therefore not unanimous as regards the existence and extent of the power to control such contempts, even in areas within the jurisdiction of the chartered High Courts; whilst in the remaining parts of British India, there is no authority that can be appealed to either in the case of superior or the inferior tribunals. Moreover, contempts of this nature, even of chartered High Courts, if committed outside the jurisdiction of such Courts, might well give rise to difficulties in securing the punishment of the offender. This being the state of affairs, I think the Council will readily agree with me that it is most desirable that contempts of the nature I have mentioned should be provided against in a more adequate and definite manner. Scandalous attacks upon Courts are punishable under most systems of law on the ground that they constitute an obstruction to public justice. While the Courts themselves must be protected, the main object of such a provision is to protect the public and especially those who either voluntarily or by compulsion are subject to the jurisdiction of the Court, from the mischief they incur if the authority of the tribunal be impaired.

“As to misrepresentation of the proceedings of Courts and speeches or writings creating prejudice, the Council will perhaps permit me to quote the weighty words of a distinguished Lord Chancellor :—

Nothing is more incumbent upon Courts of Justice than to preserve their proceedings from being misrepresented, nor is there anything of more pernicious consequence than to prejudice the minds of the public against persons concerned in cases before the case is finally heard.

“If it is accepted that adequate protection is desirable in these cases, the next question is the manner in which that protection is to be afforded. Shall we confer jurisdiction on our Courts to protect themselves or shall we treat the matter as an offence forming part of our ordinary law of offences? The Bill adopts the latter course, and the Council will doubtless like to know the reasons that have led us to deal with the matter in this way. In the first place, unrestricted powers of commitment for contempt have not escaped criticism, even when vested in the highest Courts. Hon'ble Members may remember legislative projects in England, which were conceived with the object of restricting that power within definite limits, and these projects were not without

[Sir Reginald Craddock.]

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a considerable measure of influential support. The objections to extending powers of that kind to all Courts in this country are obvious, while if such powers were confined to superior Courts and these Courts were also entrusted with the duty of protecting inferior tribunals, the procedure would be inconvenient, dilatory and probably not effective. Moreover even judges are human, and it is well to guard against the possibility—I will say the remote possibility that the outraged feeling of the Judge might lead to a somewhat hasty or severe treatment of contempt of judicial authority. The Bill therefore contemplates that offences of this kind should be ordinary offences instituted and tried as such by the appropriate Courts.

“The two new sections which the Bill will add to the Penal Code as sections 228A and 228B make it quite clear what kinds of acts are made punishable.

“Section 228A deals with what is known as scandalising the Courts, that is to say, speaking or writing anything which brings or attempts to bring into contempt, or lowers or attempts to lower, the authority of any Court of Justice, or of any person empowered by law to record or direct the recording of evidence on oath when exercising such power. By the exception to the clause comments which are in substance true and are made in good faith for the public good are saved, for, as has been well said: ‘The law ought not to be astute in such cases to criticise adversely what under such circumstances and with such an object is published.’ (Per Russel C. J. in *R. V. Gray*, p. 40, 2 Q. B., 1900).

“The second addition which the Bill will add to the Indian Penal Code deals with cases that are *sub judice* and punishes reports of pending proceedings which are of a false or misleading character and comments relating to such proceedings or to the presiding officers, parties, witnesses, assessors, jurors or pleaders, which may cause or tend to cause prejudice in the public mind or which prejudice or tend to prejudice the trial of cases. There are two explanations to this section: The first defines judicial proceeding for the purposes of this section, and the second exempts true, full and fair reports of judicial proceedings from the penalties provided in the section.

“Although a great many newspapers have respected the principle that matters *sub judice* should not be made the subject of comment, there are others that have been serious offenders in this respect and have seriously prejudiced the interests of justice by comments on pending cases.

“Local Governments and High Courts are unanimous that legislation is necessary to meet this evil, the High Court of Madras being the only exception, and that only because it believes that it already possesses the required powers.

“In order to prevent hasty or ill-considered action, proceedings for these offences will only be made on complaint made by order, or under authority, from the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf. The imprisonment provided for these two new offences is simple and subject to the maximum of six months. They will be bailable but not compoundable and triable only by a Presidency Magistrate or Magistrate of the 1st class, so that a man charged with these offences will only be charged on a complaint from a high authority, will only be triable by Courts of experience, and will enjoy the full benefit of appeal and revision which the Criminal Procedure Code allows. When the Bill is published and circulated for opinion local Governments and High Courts will have the amplest opportunity for examining it in its present form and suggesting any changes in drafting or procedure which they may consider advisable. It is also a subject in which journalists and the legal profession generally will take a very natural and keen interest. All such comments and suggestions as may be tendered will receive our careful consideration. We are anxious to safeguard all fair and reasonable comments; all we seek to secure is that the conduct of judicial proceedings is not prejudiced and that Judges, jurors, witnesses and advocates are adequately protected from malicious attacks upon their honour and impartiality.”

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[*Mr. Surendra Nath Banerjee; The President
Sir Reginald Craddock; Mr. Vijiiraghavachariar.*]

The Hon'ble Mr. Surendra Nath Banerjee :—" My Lord, with Your Excellency's permission, I desire to make an observation 'or two with regard to the Bill which has just been introduced. I confess that I have followed the Hon'ble Home Member's speech with a feeling of melancholy interest. The object of the Bill apparently is to cure a defect referred to by Sir Lawrence Jenkins, Chief Justice of Bengal, in the recent contempt proceedings which came up before that Court, arising out of the Barisal Conspiracy trial. My Lord, the same Chief Justice, some three months back, referred, if I may be permitted to say so from my point of view, to even a graver defect in the Press Act—"

His Excellency the President :—" Order, order! We are not discussing the Press Act."

The Hon'ble Mr. Surendra Nath Banerjee :—" I bow to Your Excellency's decision. What I desire to say in connection with this particular Bill is that it is likely to create a sense of uneasiness and alarm in the public mind, and I feel it my duty, even at this early stage, as a member of Your Excellency's Legislative Council, to warn the Government as to the likely attitude of public opinion in regard to it. The Press has already, to some extent, been bridled, and this will be felt as another turn of the screw. I hope I am mistaken; but I am afraid that my fears with regard to this Bill will be shared by a large body of my countrymen; and it will create, as I have already observed, a feeling of apprehension and alarm throughout the length and breadth of the country."

The motion was put and agreed to.

The Hon'ble Sir Reginald Craddock :—" My Lord, I now beg to introduce the Bill and also to move that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

"With reference to the remarks made by the Hon'ble Mr. Banerjee, as I have already stated, this Bill will be referred to Local Governments and the High Courts, and the legal profession and journalists will have ample opportunity of expressing their views regarding it. I don't propose, therefore, now to deal with those fears and alarms to which the Hon'ble Mr. Banerjee has given expression and which I do not apprehend have really much ground behind them."

The motion was put and agreed to.

THE INDIAN CRIMINAL LAW AND PROCEDURE (AMENDMENT) BILL.

The Hon'ble Sir Reginald Craddock :—" My Lord, I beg to move that the Report of the Select Committee on the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, be taken into consideration. I do not propose to treat this motion as other than formal. I shall state the views of Government in moving the second motion which stands against my name; and I shall then invite the views of Hon'ble Members upon that statement, and perhaps Hon'ble Members will agree that this present motion shall be regarded as a purely formal one with reference to the motion that next follows it for the republication of the Bill."

The Hon'ble Mr. Vijiiraghavachariar :—" My Lord, I wish to submit, for your Lordship's decision under rule 7 of the Rules for the conduct of Legislative Business, whether the motion is quite in order. With considerable diffidence I beg to submit that it is not; I will not detain your Lordship beyond a few minutes. The Select Committee has made a report and they say that, in their opinion, the Bill has been so altered as to need republication. Now Rule 25 says that, if in the judgment of the Select Committee a Bill has been so altered as to require republication, the Secretary

[*Mr. Vijiaraġhavachariar ; The President ; Sir William Vincent ; Sir Ali Imam.*] [18TH MARCH, 1914.]

shall send a copy of the altered Bill to the Secretary of the department to which it pertains."

His Excellency the President:—"Will you kindly put your point of order."

The Hon'ble Mr. Vijiaraġhavachariar:—"My Lord, I wish to make my meaning clear. What I wish to submit is that there must be a rule under which the present motion should be made. There is no rule, I submit, under which the present motion could be made because our rules are silent, as far as I could see, as to what is to be done with a Bill so altered as is contemplated within Rule 25 and I desire to call attention to Parliamentary practice on the subject."

His Excellency the President:—"I call your attention to Rule 32. Will you state your reasons for considering this motion as out of order?"

The Hon'ble Mr. Vijiaraġhavachariar:—"My Lord, unless I am permitted to state my reasons for the position I have so diffidently taken, this is all I wish to state. My statement is that the Select Committee's reports are divided into two classes; one is when a Bill is so altered as to need republication; the other is when there is but little modification. As regards the former kind of report, I say it has to go to the department from which it comes, then the rules will be satisfied. The motion for taking the Report of the Select Committee into consideration applies to Bills other than Bills so altered and all that I say, My Lord, is that the rules are silent as to what should be done with the other set of Reports accompanying highly altered Bills, and that my meaning is correct may be easily seen from the fact that the Bill may be passed into law now, if the motion is allowed to be in order. That is not the object of the Select Committee's Report, and the practice in the House of Commons is to treat this altered Bill as a new Bill, and to treat it as such for further legislation. I respectfully submit that the present motion is not within the scope of our Rules and would, if thought in order, defeat the whole object of the Select Committee and the Rules."

The Hon'ble Sir William Vincent:—"I submit, My Lord, if I may with your permission, that the practice in this Council always has been that, after a Report of the Select Committee has been presented, there is on a later date motion that this Council should take the Report into consideration; and, until that motion is accepted, the Council has no seizure of the case at all. There have been constant precedents for this. Even yesterday the first motion in regard to the Companies Bill was that the Report of the Select Committee be taken into consideration. It is not correct to say that a motion could now be made in the Council that the Bill be passed; because no such motion is entered in the agenda. Indeed, the next motion on the List of Business states clearly what the intention of the Government is and what the motion that will next be made is. Until the Council has signified its willingness to take the Report into consideration no further motion is possible. The present motion is a purely formal one, necessary to give the Council power to consider the expediency of adopting the proposal to republish, which has been recommended by the Select Committee."

The Hon'ble Sir Ali Imam:—"My Lord, may I say a word. Rule 32 is a rule under which it will be quite clear to the Hon'ble Member, Mr. Achariar, that republication is permissible after the Select Committee has either amended or not amended a Bill. The first motion that has been now moved by the Hon'ble the Home Member only says that the Council may take the Report of the Select Committee into consideration, and unless the Bill that was committed to the Select Committee is again here before the Council and is considered and the Report is considered with it, obviously the second motion which is on the List of Business could not be taken up; and therefore, My Lord, I respectfully submit that the motion put before the Council is perfectly in order."

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His Excellency the President :—“ I decide that the motion now before the Council is in order.”

The motion that the Bill be taken into consideration was then put and agreed to.

The Hon'ble Sir Reginald Craddock :—“ My Lord, I now move that the Bill as amended by the Select Committee be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit. This motion practically is that the Bill with the Report of the Select Committee attached to it be now republished.

“ The Council will observe from the Select Committee's Report and from the Bill which is before them that, while changes made in the clauses amending sections 372 and 373 of the Indian Penal Code are not of such importance as to have necessitated any re-circulation, those which relate to the new rescue sections proposed to be added to the Code of Criminal Procedure are so numerous and radical that both the Select Committee and the Government consider it necessary that the Bill should be republished in order that fresh opinions may be obtained, and the public sentiment regarding them may be further gauged and ascertained.

“ I think it will be just as well if before I proceed to comment on the Bill as amended in Select Committee, I remind the Council once again of the history of the proposed legislation.

“ We have been moved from time to time by social reformers both in England and in India to make our law for the protection of minor girls and for the rescue of the helpless victims consigned at a tender age to a life of infamy more stringent and more effective. We have repeatedly consulted the several Local Governments on the subject in past years, but each time we were warned that there was little public support for the proposal, and that the time was not ripe for changes in the law. About three years ago we made fresh references on this subject, and while the replies to these were coming in, two Members of this Council, Mr. Dadabhoj and Rao Bahadur Mudholkar, themselves put forward Bills for which they claimed the support of many thousands of their countrymen. From the replies received to our previous reference and from the earnest proposals for legislation which these two Members put forward, and with the enlarged Legislative Councils in which to discuss them, it really seemed that we could now reckon that strong support for measures of this kind would be forthcoming, and that the time and opportunity for some steps forward towards the desired end had really arrived. When the Hon'ble Mr. Dadabhoj introduced his measure in September, 1912, I indicated, on behalf of Government, the steps to which, as then advised, they were inclined to assent, and the further steps which they were prepared to consider if the result of the consultation was favourable. The result of that consultation was the Bill which I had the honour to introduce in Council in September last. The principle of that Bill was to adhere to the one aspect of the subject in which there appeared to be a general agreement, namely, the rendering more effective those sections of the Penal Code which punished traffic in the shame of young girls, and the rescue of the girls themselves from their immoral surroundings. The rescue provisions were the new and most important feature of the proposals, for the mere punishment of those persons who traffic in the shame of young girls was incomplete if nothing could be done to rescue the victims. It was like punishing a man for the wrongful confinement of a person and not releasing the person wrongfully confined. Now, although the Bill was not in the hands of Hon'ble Members before I introduced it, yet I made what I believed to be a full and detailed explanation of the rescue clauses. My speech met with a cordial reception; and no Hon'ble Member spoke in opposition to these clauses or even sounded a warning note regarding them, although they naturally spoke with some reserve regarding the details of the Bill. The Bill went out to the public with its rescue clauses in a prominent position, and it came back without any suggestion from the Local Governments or High Courts that it was a measure likely to excite serious controversy. Among the large numbers of

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opinions and suggestions, including many from Indians, there were very few which showed any misgiving on the subject of the religious preference clause. It cannot be thought that that issue was not present to the minds of those consulted. Mr. Dadabhoi has contemplated that girls should be handed over to philanthropic societies in default of other suitable custody, and Mr. Mudholkar's draft Bill, which was also circulated, contemplated the handing over of girls to industrial schools established by Government. In introducing the Bill I explained very fully why it was that reliance must be placed on private effort and not upon Government institutions, and I also explained how in rescuing the child preference in the selection of the custodian was always to be given to co-religionists of the rescued child. Only on the failure of such a one to come forward could the child be made over to the custody of one of another faith.

"I must confess therefore to a sense of surprise, when I moved for the Bill to be referred to the Select Committee, that the Hon'ble Mr. Vijiaraaghachariar opposed these rescue clauses and desired that they should be excluded from the Bill. The Bill has since been discussed and re-discussed in Select Committee, of which there were no less than nine meetings. It was gone over again and again, and even then unanimity was not attained. The Report of the Select Committee shows how, to meet the objections raised, the procedure to be followed by the magistrate has been laid down in greater detail, how a right of appeal against a magistrate's order has been provided, how preference, among possible custodians, has been given to the relatives of the child, how the taking of a security bond has been introduced as a possible alternative to the commitment to alien custody, how the age up to which suitable custody is to continue has been reduced to sixteen. How we have limited the rescue to causes where there is definite danger of prostitution and not merely of seduction, how we have inserted a penalty clause so as to enforce the performance of the conditions imposed upon a custodian, and how we have eliminated the clauses enabling a magistrate to require a parent or guardian to maintain a minor girl who has been taken away from his custody. All these alterations and additions have undoubtedly had the effect of depriving the Bill of much of its simplicity in procedure, and may have the result of making persons interested in the rescue of a girl hesitate to take action which may entail upon them so much trouble and inconvenience. It is for this reason that we consider it necessary to invite further opinions as to whether the rescue sections, after the complete metamorphosis that they have received at the hands of the Committee, will be sufficiently workable as to be of real benefit.

"But the greatest change is that which deals with the religious question, and it is upon this that I desire to make the position of the Government so clear that there may be no chance of its being misunderstood.

"To begin with, let me emphatically affirm that the Bill is in no sense a religious measure or in any way connected with religion. It is a measure for the rescue of young girls from immoral surroundings, and it is therefore a measure which men of all creeds and sects may cordially approve. But the Bill had to provide for the various contingencies that might arise. It had to deal with waifs and strays, with orphans, with children cast off or shamefully disposed of by unnatural parents or by those who should have been their best protectors; it had to deal with cases in which the rescued girl had no relatives or with no relatives except the unworthy ones who had already shown their absolute unfitness for her charge. The Bill rested on the hope and assumption that suitable neighbours—kindly people with no children of their own—or homes or institutions for the fallen, when once a legal rescue procedure was provided, would come out and help in that work of rescue. It recognised indeed that the magistrate's discretion should be limited, and that a child born in one religion should not be handed over to any one of another religion so long as a suitable co-religionist could be found. But if no such person belonging to the same religion as the child was forthcoming, it permitted the magistrate to find a suitable custodian of another religion if one could be found able and willing to undertake this work of charity. What the Bill did not contemplate was that if no relative, no caste fellow, no co-religionist and no home or institution of the same faith were forthcoming that the child should be

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relegated back into its contaminated surroundings, even though suitable persons of another faith were willing to take charge of it. The Bill did not contemplate such a step, because Government did not suppose that there would be any sentiment that it was better that a child should be a prostitute than be brought up in clean surroundings but in another faith. In Select Committee the view however was expressed that it was dangerous to make over a girl, whatever be her surroundings, to a person of another religion; and this view has been adopted in the amended Bill, although I fear that it may restrict the scope of the measure and leave children for whom suitable homes might otherwise have been provided to the contaminating influence of undesirable surroundings. It is upon it, in particular, that Government are desirous of ascertaining the views of other members of the Council and of local Governments and public opinion, so far as the latter can be ascertained. But the Government have no wish to impose on the people of this country a law which can be turned in any way into a measure to encourage proselytism, and for this reason we have agreed to the Bill being put in its present form, although we fear that it is deprived of much of its efficacy.

"I think that the Council should understand the position in all its bearings. There may be cases among the depressed classes, Animists or aboriginals, in which relations of the child themselves take no objection to the custody of the child being made over to a Hindu or a Mohammedan or a Christian but unable or unwilling to find a custodian belonging to their own particular denomination; there may be children without a friend in the world except a prostitute posing as her relative. There may be kindly persons or institutions of another faith only too willing to take the child and bring it up, but the magistrate's discretion is to be absolutely barred. It must be to a co-religionist or not at all. Now, under the clause as it stood, there was some chance, a considerable chance, that if the rescue of the child did not appeal to the moral sense of the community to which it belonged, it might appeal to their religious sense, but that incentive has now been removed.

"Far be it from me to find fault with non-official Members of this Council. If they think it is dangerous, that it will excite religious animosity, or raise a religious cry, they are right to say so, and to press their views. But what we wish to know is whether this view is endorsed generally, and to make one more reference for this purpose before we finally accept that position. But my Hon'ble friends may say—We are not so narrow-minded as that, we would not wish to relegate girls to a brothel because no co-religionist is forthcoming. We are perfectly willing to give the custody of a rescued child to a suitable institution, even of a different religious denomination, if that institution would give a guarantee that the child's exercise of its own religion will not be interfered with, and that in no case shall it be converted to a different faith so long as it is a minor; and they will point to the English Act for a precedent. But I must remark that the English Act is not an authority for this statement, for it merely adds to a first preference to a co-religionist a second preference to a person not being a co-religionist who yet undertakes to bring up the child in the faith in which it was born. It does not bar altogether the third alternative of a custodian of another religion who is unwilling to give such an undertaking. Nor are the differences in religious persuasions to which the English Act refers, and which are mere sects of the Christian religion, precedents for India, where the religions themselves are totally distinct. In England the difference may be that the child will be baptised or confirmed, or not baptised and confirmed, that it will go to the Chapel and not to the Church or to the Church and not to the Chapel, that it will attend Mass and not Communion or attend Communion and not Mass, as the case may be. But in India the differences are radical and they affect not only the religious persuasion of the child, but they affect the whole scheme of her social bringing up. It would be very difficult for a Hindu institution to bring up a child as a Mohammedan or a Christian, and it would perhaps be still more difficult for a Mohammedan or Christian institution to bring up a child as a Hindu. It is scarcely conceivable that any person would undertake such a responsibility, and that not merely on account of conscientious or religious scruples, but because of the difficulties of complying with such an undertaking, and the

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risk involved of being penalised for failure or alleged failure to carry out the terms of the engagement. My Hon'ble friends may say then why does not the Government itself undertake to provide secular institutions for the care of such children. I can only repeat, as I indicated before, that the custody of girls of tender age is not a task which Government is competent to perform. Government has not yet undertaken even the charge of male orphan children, although it is willing to subsidise private aid in that direction. All that it has ever done is to provide reformatory schools for boys who would otherwise have to be confined in jails. Every Government must naturally hesitate to undertake duties which it does not feel confident of its ability to perform.

"These, My Lord, are the views of the Government upon this Bill as it stands amended in Select Committee. I desire to invite the full and free expression of their opinion from the Members of this Council; and in particular those Hon'ble Members who were members of the Select Committee and have recorded minutes of dissent will have the opportunity of explaining to the Council the proposals contained in their notes, and the reasons which have influenced them. It is most desirable that when the Bill goes out again for public criticism the report of this debate should indicate what are the views of the non-official members of the Imperial Council regarding it. If the views of Hon'ble Members upon various points are stated, I shall be happy to explain the position of the Government regarding them, as at present advised."

The Hon'ble Sardar Daljit Singh:—"My Lord, when this Bill was introduced in this Council it was warmly welcomed by us all as a measure to furnish a remedy for a long standing social evil. The Bill as referred to the Select Committee was far from being of an ultra-radical character as a social reform measure. Nevertheless, the changes it has undergone have greatly toned it down; so much so that a step further and the very object of the Bill might have been impaired. Its most important provisions—what are called the rescue clauses—have been subjected to a drastic overhauling. As they now stand, a girl will be left to her fate and will have to return to the same poisonous environments from which she was to be rescued, if a co-religionist of hers is not forthcoming to take her in proper custody. And as further suggested, if we exclude married minor girls from the operations of the proposed law, practically all the beneficent effects of the measure will be neutralised. Besides all other arguments, it can briefly be said, at this stage, that while a married minor girl's parents are liable to neglect their duty to protect her from dangers of moral contamination, how an indifferent or absentee husband and one almost a minor like herself, can be held above the suspicion of neglecting his duties towards her.

"Now that the Bill is to be republished, I feel confident that force of healthy public opinion will help in restoring it to its full measure of efficiency and usefulness.

"When it comes to be incorporated in our Statute book I am sure it will rank among the most beneficent legislative measures and make the people to recall to their mind all that Government has done towards the social amelioration of India in the spirit of the words of the great social reformer, the late Mr. Ranade:—'There is no parallel in history where the representatives of the ruling classes have thought it their duty to strive for the moral and social regeneration of the many millions entrusted to their care'."

The Hon'ble Mr. Rama Rayaningar:—"My Lord, years ago a shrewd critic observed that among other things 'the Hindu becomes irreligious religiously'. The history of the proposed section 532B, sub-section (iii) under clause 6 of the revised Bill would seem to lend colour to that epigrammatic, perchance unjust, remark. Large numbers of helpless girls would rather be relegated to a life of misery, shame and sin than be allowed to be rescued by philanthropists of a different persuasion, lest this leads to conversion. Such uncompromising conservatism would command the assent of few people in the twentieth century, and is too much even for Hindu orthodoxy. My Lord, I am

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a Hindu, and I am not ashamed to own, an orthodox Hindu; but I refuse to subscribe to such an extravagant proposition.

"My Lord, in our Shastras prostitution is a sin, involving the ruin of the unfortunate creature in this life as also in the next. Prostitutes are the outcasts of society; they have no salvation after death. The following passages from *Brahmavaivarta Puranam*, *Shrikrishnarajama Khanda*, Chapters 22, 23 and 32, will put this beyond doubt :

'Sarvēsham sthālamastyēva punschalinām na kutrachit.

Nishkritih karmabhōgantē sarveshamāsti nischitam,
Na punschalinām viprēndra ! yāvat chandradivakarau.
Punschaliparipakwānam sarvapātakamishritam,
Daive karmani paitrēcha dēyam nacha tatha jālam.
Annam vistā payō mūtram punschalināncha nishitam,
Datvā pitribhyō dēvēbhyo bhuktvā cha narakam vrajēt;
Shatavarsham kālasūtrē pachatyeva sudārūnē,
Ghōrāndhakārē krimayastam dasanti divānisham.
Punschalyannancho yō bhungtē daivādapi narādhamah,
Saptajanma kritam punyam tasya nashyati nischitam;
Ayuh śbri yashasām hānirīha lōkē paratracha.

Snānam dānam vratanchaiva japasoh deva pūjanam
Nisphalam punschalinam bhāratē jivanam vritha'.

"Every one has a place in the universe, but not prostitutes. All attain salvation when the effects of *karma* have worn out, but not prostitutes as long as the sun and the moon exist. Food prepared by prostitutes is polluted with all sins. It ought not to be offered to the Gods or the manes of ancestors. So with water. The food and the water are verily the human excreta. Whoever offers them to the Gods or to the manes of his forefathers or partakes of them goes to hell, and rots there long cycles of years enveloped in impenetrable darkness and tortured by worms without a moment's respite. Even if by chance one partakes of the food, the reprobate loses the merit of his good actions of seven previous births. The span of his life is shortened and his prosperity and fame are lost, both in this world and after. Bath (in sacred rivers), almsgiving, sacrificial vows, contemplation of the godhead—all are devoid of merit in prostitutes; their very existence here is purposeless.

"Manu, in his *Smriti*, Chapter 5, places prostitutes on a level with converts to non-Vedic religion, and lays down that they should not be offered libations after death. At another place he says that at rebirth a prostitute becomes a vixen. It is needless to multiply authorities. The main point is that, according to Hindu ideas, prostitutes must be shunned by man and God, whether they continue to follow Hindu practices or not. Once a prostitute, a Hindu woman has no hope, social or spiritual. Many an innocent girl, not infrequently of respectable parentage, is decoyed into a life of prostitution. My Lord, theirs is a miserable lot. I pity them. For their sake, for the sake of humanity, I raise my humble voice against the change in clause 6 made by the Select Committee, so far as the appointment of guardians is concerned. The clause, as it was in the original Bill, gave preferential right to a co-religionist to custody of the rescued girl. It was a sufficient concession to sentiment. But, as the sub-clause now stands, it will prove abortive. The logical effect of the restriction of the choice to persons of the same religion will land us in difficulties; the law will become inoperative and unworkable. We must take facts as they are. No respectable Hindu will admit a girl rescued from a brothel or the custody of a procurer into his home, except perhaps as a menial servant. There are few Hindu Rescue Homes to speak of, as pointed out on a former occasion by my friend the Hon'ble Mr. Vijayaraghavachariar. Orphanages, established and managed by my esteemed friends the Raja of Pithapuram and the Hon'ble Rai Sri Ram Bahadur of this Council and other silent Hindu workers in different parts of the country, might be used as Rescue Homes; but their number is limited. Moreover, to comply with the technical requirements of the revised clause, we must have Rescue Homes for

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every religion and every sect of the same religion. It is not enough to have one central Home for all Hindus, but we must have at every important centre Smarta Homes, Shaiva Homes, Vaisnava Homes, Madhava Homes, Bhagavata Homes, Sacta Homes, Brahma Homes, Arya Homes, and what not. Hopeless! How then to provide a solution of the difficult problem of disposal of the rescued Hindu girl? It comes to this that, as the clause now stands, for want of denominational Rescue Homes, Hindu girls cannot be rescued from immoral and undesirable environments; or in other words, the law cannot attain the object for which it is designed. What is the good then of having this new legislation? It may be argued that Rescue Homes will be established by different sects of Hindus after the law comes into force. Assume,—it is a large assumption though—that the necessary denominational Homes will be started by private effort, the objection to the old elastic clause about selection of custodians loses point. But the past history of Hindu philanthropy in this direction does not justify lively hopes. The only thing that we shall probably do to cover our inactivity is to appeal to Government from time to time to establish Rescue Homes under Hindu, necessarily sectarian, management at State expense. If Government be prepared to do this on a sufficiently large scale to provide accommodation for the thousands of Hindu minor girls who stand in urgent need of protection, I do not mind the narrow scope of the clause. But I have small hope Government, with the ever-increasing calls upon its attention and funds, and for the reasons given out by the Hon'ble Home Member, will, or even can, do much in that direction. Putting aside this Government help, there remains practically nothing to ensure the proper working of the law. What is the protection then that the legislation affords to the large class of helpless girls for whose reclamation educated India has been crying all these years? An examination of the opinions on the Bill collected by Government would show how strongly supported the original provision for only showing preference to a co-religionist was. All the Local Governments and High Courts were unanimous in favour of the clause as it was. Many eminent Hindu and Mohammedan jurists and lawyers and public men consulted did not object to the clause. In all about four or five men have raised any serious objection to the clause. The British Indian Association, although objecting, do not base their opposition on any fears of conversion. Diwan Bahadur Govindaraghava Ayyar of Madras and Mr. Sheo Narain of the Punjab do not object to the clause *per se*, but would appoint custodians of a different religion in the last resort. Of Hindu opinions there are only two in the whole mass, those of the Bar Association of Muzaffargarh and of the Hon'ble Kunwar Adityanath of the United Provinces, which condemn the provision for making over the rescued girl to a person of a different religion. Is Government justified in disregarding the wishes of all Hindu India out of deference for these solitary opinions, because, forsooth, they have found strong expression on the Select Committee? I submit not. True, one Anglo-Indian, Mr. Richmond of Madras, and a European, the District Magistrate of Nasik, have raised the same plea; but their opinions cannot outweigh the considered opinions of so many Hindus and Mohammedans. The Government decision cannot be based upon them.

"My Lord, a clear pronouncement of policy is necessary. We want to know once for all if Government is desirous of affording adequate protection to Hindu minors living in dangerous circumstances. If so, in view of the absence of Hindu Denominational Rescue Homes and the aversion felt by every respectable Hindu to accommodate rescued girls in his home, how is adequate protection going to be given to minor girls? Far better that the whole scheme of legislation were abandoned than that a useless make-believe law should be added to the Statute-book. It is wrong, I might say irreligious, of us to seek to prevent the defection from Hinduism of girls, who have in them all the possibilities of virtuous womanhood, by forcing them back to prostitution on the plea of religion. If we want them to be with us, we must drown our petty differences, be more earnest in the cause, and provide them with suitable unsectarian Homes and reasonable careers of honest livelihood. If we fail in this simple duty, we must not grumble if missionaries of other religions, taking advantage of our supineness, draw them to their own fold. We have to thank ourselves for the result. But whatever the consequences, we have no right to refuse the poor

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girls adequate legislative protection. It is enough if the girl is made over to a person of a different religion under a guarantee that she shall not be converted to that religion as long as the guardianship continues. I would therefore provide for only preference being given to a co-religionist in the matter of appointment of guardian, and would authorise the magistrate to make over the girl in the last resort to a person of a different religion under the guarantee indicated.

" My Lord, life under the guardianship of a person of a different persuasion does not necessarily end in conversion in the case of girls any more than in that of boys. Attached to missionary institutions, we have numerous hostels under Christian management all over the country. Hindu boys, boys of Orthodox families, board there without scruple. How many conversions take place among them? Do we hesitate to send our boys to those hostels from fear of conversion? Why should the case be different with girls? It may be said that in their peculiar position the rescued girls will, some day or other, have to become converts to the religion of their rescuers. Supposing it is so, are we on that account justified in condemning the rescue? Is conversion under such circumstances an evil? Even if it be, is not prostitution too an evil? Besides, the prevention of the evil lies in our own hands. We can take the girls over in our own institutions if we are only a little more earnest in the cause. But, if, on account of our apathy and inactivity, the girls have perforce to be made over to Arya, Brahma, Christian or Mussulman missionaries and wholesale conversion follows, for my part, I would prefer even that course as a necessary evil. I believe that in the interests of the minor girls even conversion to another religion is better than continuation in a life of shame and sin. Which is the greater evil of the two, at any rate in the interests of the minor girls concerned? When it is a choice of evils, India is enlightened enough to choose the lesser of the two. Government ought not to hesitate.

" My Lord, another point occurs to me in connection with the question of conversion. We profess to be anxious for the safety from conversion of girls who are now practically lost to society. But what are we doing, might I inquire, to stop the annual drain upon Hindu society caused by the proselytising activities of Christians and Mussulmans? During the decade ending with 1911, the rate of increase among Indian Christians was nearly 1,00,000 a year, principally due to accession by conversion. According to the last Census Report, 'the number of Indian Christians has multiplied nearly threefold since 1872 The proportional increase is greatest by far in the Punjab,' where whole Hindu villages have embraced Christianity. 'In the Central Provinces and Berar, there is a gain of 169 per cent and in Hyderabad, Assam, and the United Provinces of 136, 85 and 75 per cent respectively. Bihar and Orissa has a gain of 56, Burma of 42 and Travancore of 80 per cent.' Add to this the conversions to Mohammedanism, and the total becomes serious in all conscience. In one Province, the Punjab, 'during the last decade'—the decade ending with 1911—'Hinduism has given 40,000 converts to Mohammedanism.' What are we doing to arrest this loss by conversion of people who would be a source of considerable strength to the society? The answer is,—Nothing. Without radical reforms in our social life we cannot hope to keep within the pale of Hinduism numerous classes of people who find in Islam and Christianity an offer of brotherhood in place of our contempt for them for their supreme sin of being born in the so-called low castes—"

His Excellency the President:—' I must ask the Hon'ble Member to speak to the question.'

The Hon'ble Mr. Rama Rayaningar:—" My Lord, a great deal is said about the absence of chances of marriage of the girls after rescue and reclamation, if effected through the agency of philanthropists of other religions. But may I know, My Lord, if those chances become brighter if the girls continue to live in the midst of their immoral environments? The idea of respectable unions in Hindu society for girls rescued from brothels is illusionary. Do what we might, respectable Hindu society will not admit these girls into its fold. If they have to be married, they must be married outside it. Brahmos and Arya Samajists would probably find a solution of this marriage

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difficulty. But assuming that a large percentage of the rescued girls will fail to find their partners in life, where is the harm? Marriage is not the unavoidable condition of life even in the case of girls. It is true the rescued girls must support themselves, but the fact does not present an insuperable difficulty. Cottage industries, domestic service, service on the field, trade and the medical profession provide ample scope for employment.

"My Lord, before I pass on to a consideration of other features of the Bill, I beg to enter my emphatic protest against the suggestion for the exclusion from its purview of married girls. If adopted, it will lead to serious difficulties. Among married girls widows must be included. Do considerations of expediency require that procurers and brothel-keepers should be free to tamper with the virtue of these widows? Remember we have in India 3,85,015 widows of 15 years and under. Of these 1,11,973 are aged 10 years and under and 2,28,042 are between the ages of 10 and 15 years. Why should they be denied adequate protection? For girls living with husbands too the need for protection is not altogether absent. There are some classes in India among whom prostitution with the connivance of husbands is common. The marriage is not necessarily a mock union. The man takes to himself one or two or even more wives in one or other of those loose forms of marriage in vogue among the lower classes; they live together apparently as honest people; but the man does not scruple to live upon the immoral earnings of the woman or women. This is neither an extreme case nor rare. I do not give the details now. The exclusion of married girls thus would entail hardship upon a deserving class of girls—girl widows—and would defeat the object of this legislation in many cases. The respectable section of Hindu society has nothing to fear from the provision. And magistrates might also be expected to use the discretion vested in them with judicial care.

"My Lord, a few other points before I conclude. I regret the deletion of section 552B of the original Bill from clause 6. In my humble opinion magistrates should have power to recover the cost of maintenance from the person from whose custody the child is removed. It is a salutary provision which will make the law effective. I would also like to have safeguards provided in the Bill against the contingencies of the guardian appointed leaving the jurisdiction of the Court without permission and of his giving the girl away in marriage without the honest consent of the natural relations or guardians. The revised Bill does not contain adequate safeguards in these respects.

"My Lord, then comes the question of the age of consent. The consensus of Indian opinion strongly favours the raising of it to fourteen years as against strangers. It would be wrong to ignore this general feeling. The reasons advanced in justification of the Government decision are, to my mind, inadequate. I hope and trust the Hon'ble Home Member will be pleased to make the additions indicated above when the Bill is again before the Council."

The Hon'ble Malik Umar Hyat Khan:—"My Lord, the stage of the Bill does not call for any comment at the present stage. I think all the Council would have been perfectly satisfied if some of the isolated members had not touched the vexed religious points and injured the susceptible feelings of various predominating religions of the country. We are highly thankful to the effort of the Select Committee and their consideration shown in this behalf in the avoidance of hurting the feelings of Hindus, Mohammedans and Sikhs, etc., alike, and I only echo the universal conviction that the masses entertain strong opinion as to the policy of Government about non-interference with the religions of the country. As the Bill will be again circulated, it will be better if the attention of the public is particularly drawn towards the gravity of the subject and the consequences that may arise therefrom. As this is a religious question and I am representing a particular religion, namely, the Islam, I consider that my keeping quiet will be tantamount to neglecting my duty to my co-religionists and the Government who have accepted me as a Mohammedan representative. Our law is unalterable by human effort and we have to strictly adhere to the text laid down by our holy book. Thus under no circumstances, of however extreme a nature they may be, the conversion from our religion into an other is considered an unpardonable sin, from which no salvation is possible. All the other sins are considered minor and are mostly

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pardonable. If a man or a woman commits a sin and then regrets from his heart of heart, the penitent may be forgiven. Any law which may force a Mohammedan girl to be handed over to any other religion, where there is danger of her conversion, is contrary to the Mohammedan law; and thus a veritable violation of it. As our law is fixed, one has got no way out, even by saying that such and such is the advanced view of an advanced person. In this connection the views of an extremely advanced person are exactly the same as those of an extremely backward, and I earnestly hope that no isolated efforts shall move the authorities to alter their present decision, which is most considerate. While on this subject, I think it will not be out of place if I touched another point, and that is the age. No age has been fixed by the Mohammedan law except the word 'puberty' and I hope the same version of the word 'puberty' will be kept by law for Mohammedans. It is an admitted fact that the age of puberty varies according to different countries, climate and circumstances. It is not only that the age of puberty is reached earlier in hot countries but the nourishment and disease have got a great deal to do with it. Two persons may be born the same day. One may get less diseased than the other and be well nourished, while the other may remain sickly and under-nourished. Their ages of puberty under these circumstances will certainly differ. Great weight will also attach to the parents in the way of their strength, health and ages which will largely affect the children's age. For the above reasons no particular age has been specified in Islam and it will be dangerous to do so as persons arriving earlier at the age of puberty would have to be kept to fight against nature till the fixed age arrived at and there is great danger that they may succumb to human passions and be ruined. I hope that at any rate for Mohammedans their religious law will be observed and the present Bill be so enacted as to would be in entire accord with the Mohammedan law when applied to those who profess to be of that religion.

"Now, My Lord, as there are so many pieces of land in the colonies, in the Punjab and in other places being given away to other people, it would be very useful, I think, if some land were given for the purpose of forming a colony for those girls who were not taken in by their co-religionists. These places could also be used to send girls who had been brought up before a magistrate. I would appeal to the Government to consider if this is practicable."

The Hon'ble Sir Gangadhar Chitnavis:—"My Lord, this is a somewhat difficult and ticklish matter, and opinion is likely to be divided on it. Important changes have been made in the Bill in Select Committee, and it is only right and proper that it should be referred back to the country. I therefore congratulate the Government on this sound and statesmanlike decision. After we have got the opinions we shall be in a better position to judge of the feelings of the people. We have to respect sentiment, as Government always does and as Your Excellency by your policy has shown should be done during your time; at the same time we must see that the law is effective. It would be premature to discuss the merits of the Bill at this stage, when it goes back to the country for the expression of public opinion on a particular sub-clause, which was undoubtedly introduced in the Bill with the best of motives, but which has now been eliminated in deference to the opinion of some members of the Select Committee."

The Hon'ble Mir Asad Ali Khan:—"My Lord, I rise to congratulate the Government on the initiative they have taken to introduce this piece of social legislation, which is largely based upon Mr. Dadabhoj's proposed Bill for the protection of minor girls. When I consider the peculiar social and religious conditions of the Indian peoples I am led to believe that any social legislation in this country ought to proceed on slow and cautious lines. It is, therefore, necessary and desirable that at this stage of the Bill we should be willing to take into consideration the views and the sentiments not only of the experts, but of the public at large. I may, therefore, be permitted to make a few observations. The amended Bill leaves room for further improvement, especially in the direction of restricting the rescue provisions to unmarried girls and making express provision for suitable custodians, whether individuals or institutions, in the absence of custodians of the same religion as

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that of the minor. With these improvements the Bill should be more acceptable to the country. The absence of a provision for suitable custodians of a different religion from that of the minor will have but one result; it will send back the rescued girls to the very places from which the proposed Bill intends to take them away. I really fail to see, My Lord, why these important provisions were not taken into the serious consideration of the Select Committee. Further, the custodian chosen should, as far as practicable, be a respectable member of the gentle sex, especially in all those cases where Mussulman girls or other girls of Ghosha families are concerned. *Purda nashin* girls, however young they may be, will certainly prefer female guardians more or less related to them. I trust the Government will see their way to amend the Bill further along the lines suggested and make it a truly beneficial and popular measure".

The Hon'ble Maharaja Ranajit Sinha of Nashipur:—

"My Lord, the Bill which is now before the Council was not introduced for any administrative or political purpose, but to check the social evil which exists in our country; and so the Government is to proceed very cautiously and should not go ahead of the public opinion; but at the same time it should be effectual. My Lord, I regret that the Bill as it now stands is worse than what was originally introduced by the Hon'ble Home Member at Simla. The principal provision to which an objection has been taken is, as regards the rescue clause. If our countrymen want to check the social evil the law must be effective and should not remain as an inoperative Act, but as the Bill now stands it will serve no useful purpose. The Bill says that the Magistrate shall have power to make over the rescued girl to the custody of her co-religionist, but it is silent under whose care she is to be placed in case her co-religionist does not come forward to be her custodian. It is not at all desirable that the child should be sent back whence she will be rescued. My friend on the right, the Hon'ble Mr. Banerjee, suggested in his minute of dissent that in case where the co-religionist of the girl is not forthcoming to take charge of her, the child might be made over to a suitable person professing another religion, if he would give a guarantee that the child would not be converted into a different faith; but the difficulty will arise in cases where no one will be willing to give such an undertaking. In my humble opinion, in that case, the Magistrate should have the power to make over the child to a suitable person, even professing a different religion; because I think that it is better for her to be converted than to be a prostitute.

"Then as regards the other points, some of the members who have dissented from the Select Committee's Report consider that the age of consent should be raised from twelve to fourteen against every person except a husband. If that be the public opinion, I think it is desirable that the age should be so raised. And some of my friends have taken objection as to the Act being applied to married girls. As far as my experience goes, as regards Bengal, I find that all the prostitutes marry their daughters and other girls under their protection; but these are not *bond fide* marriages, and husbands of such girls disappear even a few days after such marriages. So if the law be restricted to that extent, I think the object we have in view would be frustrated, so in my opinion it should apply to all girls, whether married or unmarried.

"I am glad that the Bill is going to be sent back to the country for opinion, because in these matters the Government should consult the public views and I doubt not that the public will support the measure so as to check the social evil which now exist.

The Hon'ble Mr. Vijiaghavachariar:—"My Lord, I came here this morning believing that this motion would be merely a formal one and that no Honourable Member would be called upon to speak on it. I think the question now is whether the Bill, as amended by the Select Committee, should be republished and should go again before the country so as to invite opinions. I am somewhat at a loss and even embarrassed to understand what the speeches, not only embracing the principles and provisions of the whole Bill but criticising its shortcomings, are for. Are they in the nature of instructions, and in view to gain converts here to this view, there to that view? I cannot understand the position at all. However, I am invited and

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even challenged to make my position clear as regards my conduct in the Select Committee and as regards my statement made in the minute of dissent. I am now considerably embarrassed because I am often told that I cannot allude in Council to what takes place in Select Committee. I am at the same time asked to define and defend my conduct in the Select Committee. It is an exceedingly difficult position for me. In the first place I deny that the Bill, as it stands just now, is entirely the product of the non-official members of the Select Committee. I may not go further than that under the rulings here in the Council. Unless your Lordship permits me to tell the Council what exactly took place in the Select Committee, I shall be unable to defend myself and explain my position satisfactorily. Confining myself therefore to what has been made public, I respectfully submit that the omission of the clause providing for handing over rescued girls to institutions and other similar changes were not due to me or my non-official colleagues. I may not go further. In my minute of dissent I have stated that in case proper safeguards were given by persons of other religions, that these girls would not be converted while they were minors and while in their custody, I had no objection to guardians of other religious faiths being appointed for them. Therefore, so far as that charge goes, whether the charge comes from the Hon'ble the Home Member or from my friends on this side or on that side, I plead not guilty.

"Then my Hon'ble friend on my left quotes some scriptural authority for his criticism. I can easily show that the passage quoted is spurious, because the idea about the Indian scripture is that it is incalculably ancient and that it has no beginning; but this quotation alludes to prostitution. Therefore it must be long after society was developed and prostitution got into it somehow. Nextly, it is highly defective and unsatisfactory in the enunciation of its penal principles. It punishes, and punishes eternally, the poor prostitutes who are victims; but it makes no provision for the punishment of those who are the other parties to the prostitution. Nay, more. These victimizers are entitled to heaven. It is thus transparently clear that the quotation is not part of scripture. I deny it is the word of God. Therefore I hope no argument will be placed upon such a quotation. It ought to be dismissed from all consideration. It is abundantly clear that in measures of this kind we must be entirely guided by the conditions and feelings of society as it exists. On this I have to take my stand, and on this alone.

"The Hon'ble the Home Member complained that when the Bill was introduced at Simla I did not speak and did not offer any criticism. It is so. Although I cannot as it appears quote Parliamentary practice for construing our rules, I can quote it, I believe, as a guide and in justification of my conduct in Council, and I say it is most unusual for members to speak when leave is asked for to introduce a Bill. The contrary practice was first introduced by the Irish members in Parliament. Very often nobody knows what the Bill is when leave is asked for its introduction in Parliament. In Parliament simply the member who introduces the Bill walks up from his seat and standing at the bar informs the speaker 'A Bill, Sir,' and at once obtains his permission to deliver it to the clerk, who reads out the title. With this the 'first reading of the Bill' is finished; often too there is no Bill at all, the title alone is there. Therefore, in my humble opinion, with due deference to those Hon'ble Members who do speak, it is absolutely unusual and even unconstitutional to subject a Bill to debate on the occasion when leave is asked for it to be introduced. So I did not speak on this occasion in Simla; there was no Bill before me to read and discuss. When the Bill was actually and truly introduced in view to refer it to Select Committee, I did express my opinion at some length; and the Hon'ble the Home Member had an opportunity of replying to me; and, in doing so, he complimented me, and now he takes a somewhat different attitude. Of course he does not say what passed in the Select Committee to warrant this change in his attitude, but people outside it would put two and two together and draw their own inferences. In the first place it is not accurate to say that I asked for the rescue provisions to be dropped in any event. I said they had better be dropped if the Bill stood as it then stood. And this qualification has been dropped by my hon'ble friend. In justice to

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me, it is absolutely unfair to say I desired to drop the rescue provisions absolutely. If the Bill stood as it then stood, certainly I was for dropping these provisions; and I repeat that I should be in favour of dropping these provisions if the Bill stood as originally, and whether I am right or wrong, it is due to me to say that I asked for the dropping of those provisions only, if the reform I asked for was not carried out in the Select Committee. I asked for a good deal of reform; and if it was not granted I continued to say that, in so far as in me lay, I would oppose the enactment of the rescue provisions as they then stood.

"Then the Hon'ble the Home Member ventured, I respectfully submit, on perilous ground when he compared the English Act with this Bill in the vital matter of the religion of the guardian. He divided the English Act into three portions as regards this vexed question of the religion of the guardian of the rescued girl. He said that first of all the English Act provides for guardians of the same religion, next for guardians of other religious persuasions with safeguards, and he further went on and said that it did not prevent a third alternative, namely, handing over the girls, when the first two alternatives failed, to persons of another religion, and that without demanding safeguards of any kind whatever.

"I am perfectly willing to join issue with him as to this alleged third alternative. I deny that that is the law of England or of any other part of the civilised world. If my hon'ble friend can show by any decision of a court or by the authority of any text-book writer that in England, where custody of the same religion or custody of a different religion with safeguards failed, the girls can by law be handed over to people of different religion, I am willing to withdraw my objection altogether. I wonder where he got that idea from. I believe he is under a misconception as to the meaning and scope of the English Act on this point. It does not provide for any such third alternative. However, I respectfully submit that in these matters the Government must take the people of India into greater consideration and confidence. Taking science as our guide for ascertaining the age of the world, we must have lived at least five hundred thousand years. Now, suddenly we discover the great evil of prostitution and propose drastic remedies. There is no doubt that prostitution is an evil. But prostitution being an evil, if we wish to get rid of it, we must get rid of it on lines of caution dictated by ages of experience, on lines which would not irritate the large majority of the people, on lines which would not produce greater evils and would not make the action of Government appear odious to the people in consequence. That was my leading idea, and having that idea in my mind, I certainly asked for considerable modification of the Bill and inclusion in it of other fresh provisions, but relevant to the purpose in view. And I had no other and further intention. This explains My Lord, my whole attitude in Council and Select Committee. First of all there was in the Bill the important provisions as to the religious persuasion of persons to whose custody rescued girls should be handed over. These provisions included a power, by necessary implication, to commit the custody of a rescued girl to a person of a foreign religion without any safeguard to prevent conversion. I naturally enough said that preference should be given to persons of the same religion in the first instance, but that, if it was not possible to find a custodian of the same religious persuasion, power might be taken by Courts to find a custodian of any other religion, provided he gives an undertaking, that is exactly borrowed from the English Act, that no conversion, and no attempt at conversion, would be made by her guardian during her minority, and, speaking for myself, I went further and agreed that in the case of a child picked up in the streets, whose religion could not be ascertained,—and here I hope the Hon'ble the Home Member will bear me out—that the girl may be handed over to a suitable guardian of any religion and be brought up in any religion. That being so, I cannot understand the severity of the criticism and the asperity of the remarks which have been hurled against me, expressly or by implication. It is always wrong in such grave matters to attribute perversity to people, because they, in discharge of their duties, sound a note of warning. I said that if the Bill in its original form had been launched as law and had been worked, it would make the position of the Magistrate of the District, and even—

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tually it would make the position of the Government, appear in a light to which, especially at this crisis in Indian national life, it is most undesirable that the British Government should be exposed. I venture to object to the opinions expressed here to-day, especially the strong opinion of the Hon'ble the Home Member, being sent out along with the Bill. The latter practically amounts to a mandate by the Hon'ble the Home Member, on behalf of the Government of India, and I fail to see how the Local Governments and officials would be free and venture to express a different opinion. Therefore, in sending forth the Bill with all these opinions, it practically destroys the utility of the republication; and hence, Sir, I submit that when I spoke to a point of order this morning in accordance with Parliamentary practice, I had this object in view. My object was to avoid this debate and discussion, so that the Bill might go before the public without any opinions, either of Government or of any individual Hon'ble Member.

"The next point I should like to mention is the question whether married girls should be included in the rescue provisions of the Bill or not. Here again I have been misquoted. I emphasized the principle that marriage is an indication that the girl is intended to be brought up for a good and natural career in society, and at the same time I also said that where a Magistrate who has inquired into a case has reasons to believe that the holy ceremony of marriage was made a pretext for immoral purposes, he has jurisdiction to deal with the alleged married minor girls. Is it fair to quote me without this qualification? I asked if it could not ordinarily be presumed that in the case of a married girl her husband and her parents and other relations could take care of her against evil influences and that until the Magistrate had reasons to believe that that presumption did not exist in a concrete case, and that a man meant to use the divine *institution* of marriage for purposes totally immoral, this new law should leave married girls alone, while it might be strong enough to interfere in cases where persons calling themselves husband and wife carry on a nefarious trade. That being so, I protest against the statement without a qualification that I am against married girls being included in the Bill under all circumstances. I am against *bond fide* married girls being included in this law.

"Then, My Lord, it must be remembered that throughout this debate the word children has been used for purposes of rescue. But the Bill extends to the rescue of girls till they are sixteen years old. Now in this country we must not forget this fact that girls are not only wives, some of them are also mothers under sixteen. I asked the question over and over again whether it is desirable that merely because a young wife had some sort of social intercourse with a *Deva Dasi*, it would be sufficient to deprive her of her marital rights and status in society. Would it not oftener than not be a greater evil than the evil which it is intended to cure? If her closest relations believe in her guileless innocence, if her husband has faith in her, what does it matter if she has conversation or visits a dancing girl or allows a courtesan to visit her? These are matters which ought to be taken into consideration in enacting a law for the people of this country. I said that in India prostitution stands on a totally different footing from the West. Rightly or wrongly, the *Deva Dasis* and certain other persons who lead this life do not occupy the same low position in society which prostitutes in the purlieus of Western cities occupy. Rightly or wrongly, they visit their neighbours' houses and occasionally teach music to young girls. Now we cannot get rid of these social conditions and facts. But yet such acts would be within the meaning and scope of this measure. Frequenting the company of dancing girls is legally complete if the dancing girl goes and takes *pan soopari* with married girls. Therefore, prostitution in this country and prostitution in the sense in which it is understood in Western countries are two different things. Mere social intercourse with prostitutes, which would mean contamination in the West, would not necessarily be evidence of contamination in this country. Therefore, I protested that where the relatives of a married girl and her husband say 'we have confidence in her', it is no matter for the authorities to take a different view with Western notions. The marital right belongs to the husband—the law has recognised it as such—and if a husband who is the person

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most interested in the chastity of his wife says he is not afraid of her having social intercourse with *Deva Dasi*, I say it is not correct policy for the law to intervene and say that the Magistrate does not accept that judgment, and therefore he may get hold of the married girl and send her away to a rescue home or worse to some other man. Therefore, I say, it would be disastrous to include married girls where their relatives do not suspect them, where their husbands and others say they have the fullest confidence in them. There I say the authorities should not interfere. But where the authorities believe that this marriage is made use of as a cloak to carry on a traffic in immorality, there they have power, and not till then should they have power.

"My Lord, I really don't know whether I am called upon to touch on all the points which I have taken up in my dissenting minute. If I were to do so, I should probably be occupying over an hour more, while it is a matter of no indifference to me as to whether or not the public will agree with me or the Hon'ble the Home Member in our somewhat conflicting views. I can now only address an imaginary public and warn them not to be guided by any opinions expressed in this Council one way or the other. I hope they will pay no attention to them. I do hope that the whole country will direct their attention to the Bill, the whole Bill and nothing but the Bill, and then form and express their judgment."

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, I entirely agree with my friend the Hon'ble Mr. Vijiaraaghavachariar that we did not expect that there would be a discussion on this Bill to-day, and I consider it unfortunate that it should have been introduced by putting the motion in the form in which it was put. However, we are face to face with it now, and as I am one of those who were on the Select Committee, and as a challenge has been thrown out, I think it is a duty I owe to the Council and to the country that I should add a few remarks to what my esteemed friend has said regarding some of the matters discussed in the Select Committee.

"Before I come to that, however, My Lord, I should like to say a few words in regard to the opinions expressed by the Hon'ble Mr. Rama Rayanagar to-day. Of course every body is entitled to hold any opinion he thinks best, and I do not quarrel with him or with anyone else for differing from me or from anybody else. But I think that when he referred to Hindu Shastras, he might have taken a little more care to understand what the passage he quoted meant and to whom it applied and not made a travesty of the Shastras in the way he did. If he had had the fairness and the patience to do so and to read a little more of the Shastras, he would have seen that the statement that according to the Hindu religion there is no place in heaven, i.e., no hope of salvation for any unfortunate soul who has even become a prostitute was absolutely incorrect and unjustifiable. My Lord, a condemnatory passage in which adultery or, according to my friend's interpretation, prostitution is held up as an abomination, as a condition of existence which every daughter of man ought to shun and abhor, necessarily painted in language such as has been quoted, to secure that the human mind should recoil from even the thought of it has been put forward as showing that within the pale of the Hindu religion there is no hope of salvation at any time for a girl who has once fallen into a life of prostitution. My Lord, the Hindu religion offers a hope of salvation not merely to every man and woman howsoever fallen, but to every creature upon earth. Every creature which is sentient with life is regarded as a fellow-being by the Hindu who knows his religion; and to say that a daughter of man who has had the misfortune of having been led by evil man into a path of evil, has, even after renunciation and repentance, no salvation in this or the next life, according to the Hindu religion, is, I grieve to say, My Lord, as unjust as it is untrue. It would be sufficient to remind the Hon'ble Members of the story, in the *Mahabharata* of a prostitute who went to heaven for performing one single act of hospitality to an old man who was exposed to killing cold and hunger, while she was carrying on the profession to which a cruel lot had condemned her. Then, My Lord, the Hon'ble Member has read a lecture to us Hindus—and through us Hindu Members of this Council, to the whole Hindu community—upon our duties in matters social and socio-religious. My

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friend has read to us a lecture here—and to Hindus at large—with regard to the shortcomings of their own faith. My Lord, history has been pronounced to be the best subject for a man to study if he wants to judge and serve his fellow-men aright; but history is also a subject which easily misleads if it is read perfunctorily. If the Hon'ble Member had studied history a little more carefully than he seems to have done, he would have noted that societies develop institutions; as they recognise the need of them, and that even then it takes them ages to build up all the institutions which they need. Our Christian fellow-subjects have been developing missionary institutions for ages past, such institutions were unnecessary in India in days of yore, because the Hindu religion contented itself with leaving every man and woman free to follow the faith that he or she regarded as the best, and did not think it fit to proselytise. Now that we are face to face with active proselytising agencies, we are slowly—perhaps tardily even—but still steadily awaking to our duties in this matter, and I have every hope, My Lord, that we shall in the not distant future develop institutions to save our people from being improperly converted to other faiths, and also to afford shelter to the children of our community rescued from unwholesome surroundings.

“ But, My Lord, situated as we are, the *laches* of the Hindu community cannot fairly be used as an argument for the Government to undertake legislation of a drastic character, which would be too much in advance of the public opinion of the community. Government has steadily—and I submit rightly—refrained from social legislation, except when its necessity has been overpowering, on the ground that questions of social reforms in India, particularly among Hindus and Mohammedans—often have a religious aspect also; that to a large extent legislation to promote social reform cannot be undertaken without trenching upon the delicate ground of religion; and that as the Government has, in its wisdom and benevolence, deliberately adopted the principle that it shall not directly or indirectly do anything which will affect the religion of any of the communities entrusted to its care, it is only right that it should refrain from taking such action. My Lord, we are progressing, and we shall progress more. Many institutions of a beneficial character, of a humane character, have sprung up in our midst and more will spring up in time. We have proved apt pupils of our brothers and sisters of the West in many respects. We admire them for their religious and charitable organizations and we are trying slowly but steadily to benefit by their example in improving our existing organizations and in creating new ones. I have every hope that we shall not be found wanting in this matter as time goes on. But to advise Government to force upon our community legislation of an advanced social character without due regard to the actual realities of the existing situation, will be an advice, My Lord, which I am sure Government will not accept and act upon.

“ I will now refer very briefly to the remarks of the Hon'ble the Home Member. My Lord, the Hon'ble the Home Member has given us a history of this legislation. He has told us that the Government generally refrain from embarking upon legislation of a social character, particularly because in this country social legislation takes very often a socio-religious character. But that in the matter before us the Government have moved in response to non-official Indian opinion. It is true, My Lord, that the Bills introduced by two non-official Members in this Council have led the Government to introduce the measure which is now before us. I am one of those who supported the measure when it was first introduced. I still adhere to the view that the measure is in principle a beneficial one, and that if the necessary safeguards are provided, it ought to be passed. But, My Lord, we owe a duty to the people and to the Government which compels us to point out, at whatever stage of the discussion the idea may occur to us, what we consider to be necessary or desirable amendments of the Bills. It has been urged against some of us who were members of the Select Committee that when the Bill was introduced we did not put forward the suggestions which we felt it to be our duty, after a careful study of its provisions, to urge before the Select Committee and to embody in our minutes of dissent. Your Lordship will be pleased to remember that when the Hon'ble the Home Member asked for leave to introduce the Bill,

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I ventured to draw attention to the difficulty under which we non-official Members laboured in not having a copy of the Bill before us. When a motion is made to ask for leave to introduce a Bill and we are called upon to vote upon it, we have to exercise a judicial mind in so voting and that without the Bill before us we can give only a formal assent to such a motion. Well, the Bill was introduced; it was sent out to the country and opinions were invited. I had the honour of being nominated to the Select Committee, and it has been my duty to study those opinions. Among the opinions so returned to the Government, and in the discussions with friends, we found that there was a strong feeling that the Bill, as it was introduced, might indirectly become a means of encouraging proselytising and we felt it our duty, while giving our full support to the humane principle of the Bill, relating to the rescue of girls from evil surroundings, to urge with all the force that we could command that the Bill should be as free from the charge that it might indirectly encourage proselytising as that Act is. My Lord, it was with that object that we put forward suggestions for amendment that we did. I am glad and thankful to say that the Select Committee have, in their wisdom, unanimously adopted some of the suggestions we made. They have incorporated provisions which I need not particularise which have provided safeguards against possible hardship and injustice, which did not exist in the Bill as it stood originally. But, My Lord, we could not persuade the Committee to adopt some other provisions, or to adopt them in the form which we considered necessary or desirable, and we have embodied these in the minutes of dissent which we have appended to the Report of the Committee.

"Now, my Hon'ble friend the Home Member has invited particular attention to what has been described as the rescue provisions of the Bill. In dealing with them here to-day we labour, as my friend the Hon'ble Mr. Vijayaraghavachariar has complained, under this difficulty, that the discussions which take place in the Select Committee are not reported and not made public—unlike what happens in the Committee stage in the House of Commons, where every word uttered, and every argument urged, is recorded in the proceedings of the House.

"Now, My Lord, it is not the first time that we find ourselves in such a difficulty; but we feel it in a special measure today. We are told that we cannot refer to what happened in the Select Committee; and yet in the speech which the Hon'ble the Home Member has thought fit to make, his remarks have evidently been so framed that they would show that there was considerable divergence of opinion in the Select Committee and that everything was not satisfactory. My Lord, it becomes necessary for me then to point out that so far as the Bill stood as it was committed to the Select Committee, it provided that in selecting a guardian for a female minor rescued from evil surroundings preference shall be given to a person who is of the same religion as the minor. So far we were all agreed. I do not think any member wished to go behind that provision that in appointing a guardian preference should be given to a person of the same religion as the minor. Beyond that the Bill as it stood provided that in case no such person was available, *i.e.*, willing to undertake the custody of a minor, she might be made over to the care of a person who was not of the same religion. Now, My Lord, in dealing with this latter provision, it became my duty to draw attention to the provisions of section 23 of the Children Act, 1908, (8 Edw. 7, ch. 67) from which the principle of the present Bill seems to have been taken. That section provides that 'in determining on the person to whose care the child or young person shall be committed under this part of this Act, the Court shall endeavour to ascertain the religious persuasion to which the child or young person belongs, and shall, if possible, select a person of the same religious persuasion, or a person who gives such undertaking as seems to the Court sufficient that the child or young person shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.' Now, My Lord, the Court is required to give preference, as my Hon'ble friend the Home Member has observed, to a person of the same religious persuasion. And in case no such person is available, the custody of the minor is to be made over to a person who would give such an undertaking as seems to the Court sufficient that the child or young person shall be brought up in

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accordance with its own religious persuasion, and that such religious persuasion shall be specified in the order.

“ Now, it was on arguments based on this provision of the English Act that the further change was urged before and accepted by the Select Committee that where the religion of a minor, who comes within the purview of this Act, is known or can be ascertained after reasonable inquiry at the time of making the order, she shall be made over to a person who is willing to undertake her custody and is of the same religion as the minor. I do not think, My Lord, any reasonable objection can be urged against this provision. It is based upon the analogy of the English Act, upon what they have embodied in section 23 of the Children Act, and it is much more needed in the circumstances of this country than even it was in England. But, My Lord, while the Select Committee accepted this portion of our argument that where the religion of a minor is known or can be ascertained, she shall be made over to a person of the same religion, they did not accept the second portion, *viz.*, that where such a person cannot be found, then the child shall be made over to a person who is willing to undertake, though she shall not be brought up in a particular faith. If they had adopted this, and the further proviso which I have added in my note of dissent, the provisions of the Bill on this head would have stood as follows :—

(2) Where the religion of the female is known or can after reasonable inquiry be ascertained, a suitable person who is of the same religion as such female is willing to undertake her custody; and (3) where the religion of the female is not known or cannot after reasonable inquiry be ascertained, a suitable person is willing to undertake her custody and to give such an undertaking as to the Court seems sufficient that she shall not be converted to any particular faith so long as she remains in his charge.

“ I would add a fourth clause as follows :—

Any other suitable person.

“ That is to say, My Lord, that where the religion of a minor is not known, I would let her be made over to the care of a person or institution which will give an undertaking that the minor shall not be converted to any particular faith. I do not object to the minor being brought up in a religious spirit. Bringing up a minor in a religious spirit, giving moral and religious instruction in tenets, or precepts which are common to all religions, telling her something of God and of the dignity of womanhood, is not what I would prevent. What I wish to prevent is that a minor placed under the temporary custody of a stranger for the purposes of the proposed Act, should be converted by such stranger to any particular faith; because if later on, when she comes of age and finds out to what caste or community she belongs, and wants to go back to that community and be married in that community, she may find the doors barred against her because of the conversion; and I submit, My Lord, that that would be a wrong from which the Legislature which legalises a minor being committed to the custody of a stranger should consider it its duty to protect the child. I agree that in case you cannot find such an institution or person who would give as aforesaid an undertaking, you may let a rescued girl be made over to the custody of any other suitable person, even though he would not give such an undertaking; but I submit, that in that case it would be nothing but fair to add the following clause to the Bill :—

In any case where the female has been placed pursuant to an order under this section with a person who has not given such an undertaking as aforesaid, the Court which made the order, or any Court of like jurisdiction, shall, on the application of any person in that behalf, and on its appearing that a fit person who will give such an undertaking as aforesaid is willing to undertake the care of the female, make an order to secure her being placed with a person who gives such an undertaking as aforesaid.

This is on the analogy of section 23 (2) of the Children Act. For facility of reference, I will quote it. It runs as follows :—

In any case where the child or young person has been placed pursuant to any such order with a person who is not of the same religious persuasion as that to which the child or young person belongs, or who has not given such an undertaking as aforesaid, the Court which made the order, or any Court of like jurisdiction, shall, on the application of any person in that behalf, and on its appearing that a fit person, who is of the same religious persuasion, or who will give such undertaking as aforesaid, is willing to undertake the care of the child or young person, make an order to secure his being placed with a person who either is of the same religious persuasion or gives such undertaking as aforesaid.

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"Now, My Lord, if the English Legislature, with the knowledge that it has of the number of industrial schools existing in the United Kingdom, and of the number of reformatory schools and of homes for the reception of children taken out from evil surroundings existing there, thought it fit to provide that, where the religion of a child is known and a suitable person who is of the same religious persuasion cannot be found to take charge of her, she should be made over to a person who would give an undertaking such as is spoken of in section 23 (2), I submit it is nothing very outrageous to suggest that in this country, where the differences of religion are much greater than in England in the case of minors whose religion is not known or cannot be ascertained at the time of making the order, there should be a somewhat similar provision in the Bill before us. My Lord, if the recommendations which we have made are accepted, not one single child rescued from evil surroundings will be forced back into prostitution as some of my critics apprehend. We are agreed that where such a person cannot be found who will give such an undertaking, the child may be placed in the custody of a person who is regarded as a suitable person even without taking such an undertaking; but all that we urge is that as this provision of the Act might be regarded as leading indirectly to proselytising, there should be a provision to the same effect as section 23 (2) of the Children Act, that the child shall be made over to the custody of a person who will give such undertaking, when such a person is forthcoming. My Lord, the differences of the situation in the two countries supply strong reason for this proposal. In England, as the Hon'ble the Home Member has observed in the course of his remarks, you are dealing with one religion. The different phases of the Christian faith do not differ materially from each other in the sense in which Christianity differs from Mohammedanism, or Mohammedanism differs from Hinduism. A Protestant child may be handed over to the custody of a Roman Catholic, or a Catholic child may be handed over to the custody of a Protestant; but, My Lord, the English Act did not contemplate, and my Hon'ble friend Mr. Vijayaraghavachari has rightly pointed out that there is no provision in the English Act which would justify the making over of an English child to the custody of a Hindu or of a Mohammedan guardian or institution.

"What we urge, My Lord, is that in this country with its differences of religion more sharply and broadly marked, and with the susceptibilities of the people more keen in matters religious, a similar provision should be made. And, My Lord, we are not pressing for a new departure in the policy of Government. Government in its wisdom and beneficence has made a similar provision in the Famine Code. Section 181 of Chapter XI of the United Provinces Famine Code lays down, and I suppose a similar provision is also to be found in the Codes of other Provinces, as follows:—

The Collector shall be in times of famine the temporary guardian of the children who are found deserted in his district. He shall be responsible for the care of them and shall not surrender them except to their natural protectors or, failing these, to respectable persons of the same religion who are willing to adopt them until a sufficient period has elapsed after the close of the famine to enable full inquiry for the natural protectors of the children to be made. This period may be put at three months.

"The provisions which I am urging should be adopted in the present Bill are on the lines of these provisions. Under the Famine Code Government has thought it right to lay down that the Collector shall not hand over the children deserted in famine areas for a sufficiently long period so that their natural protectors may be found. In the Bill before us we are willing to provide that in extreme cases a female child rescued from evil surroundings may be handed over for custody to a person without his giving an undertaking such as I have mentioned, but we submit that it ought to provide for transferring the custody of a child to a person who may be willing to give such an undertaking, when such a person is forthcoming. It should be borne in mind—I wish the Hon'ble the Home Member and other Members who agree with him would give sufficient consideration to the fact—that in England the Government has provided certified industrial schools, reformatories and homes for the reception of children rescued from evil surroundings. Under section 58 of the Children Act, children rescued from the company of a prostitute or who may be in danger of being exposed to risk of prostitution, are in the first instance to be sent to certified industrial schools. The Magistrate is empowered to hand them over

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to the care of a relative or other fit person; but in the first instance they are to be sent to an industrial school. Ample provision is made for the support of these industrial schools from the public treasury, and for their inspection from time to time by persons appointed by the Secretary of State to see that the provisions of the Act for the welfare of the children dealt with under it, are properly carried out. Provision is also made for places in which children of this description are kept being visited by persons who belong to the same faith as these children, in order that there may be no danger of their being converted to another faith. This may be right or it may be wrong. We are human beings and are not less human in this respect than are our brothers in England. If there is anxiety felt there that while a child is a minor and unable to judge for herself, she shall not be influenced into changing her faith, I submit, My Lord, that a similar anxiety is shared by us also. Our object in drawing attention to the provisions to which I have drawn attention, and in expressing a hope that they may be accepted is nothing but that the Act should go forth as a pure, humane measure meant to rescue female minors from evil surroundings, and that it shall not be liable to be indirectly used as a means of proselytising. Nobody would suggest, nobody would think of suggesting, that the Government desires that any such proselytising should take place. All that we are anxious for is that it should remain a humane measure with the safeguards similar to those that the English Act has provided.

“My Lord, I want to say one word about married females, because our position with regard to them is not clearly understood. The Hon'ble Mr. Rama Rayanagar has quoted statistics from the Census Report showing what a huge number of widows, we Hindus have in our community. It is our misfortune. We are sorry for it, but it is a legacy which has come down to us, its growth is not the creation of an individual or individuals. Social Institutions cannot be altered, much less extinguished, in a day, even at the bidding of the most ardent social reformer. We have thus a large number of widows and a large number of married girls under 16 years of age in our community, and we are anxious that in the present state of our society, the provisions of this Act should not be such as to take within its scope married females who are under 16 years of age. My Lord, prostitution is an evil, but while we on our side are not in the least anxious to underrate the evil, we desire that those who differ from us should not exaggerate its existence or extent. Prostitution is not an evil in the same sense in which it is in the western countries of Europe. Here you will not find many cases of married females or widows under 16 having been taken from the guardianship of their relatives and thrown into the company of prostitutes or led into the path of evil by association with prostitutes. Until the number of cases in which married females or widows under 16 years are led into this evil is shown to be sufficiently large, the principle of rescuing them from the surroundings in which they may be living and committing them to custody under the provisions of the proposed Act, should not be extended to them. The Government do not, and rightly do not, wish to proceed hastily in the matter of social reform. But now that they are making a step forward, I only ask that they should not take a very long step forward, without proper regard for the realities of the situation. It is possible that if the amendments we have urged are accepted, and married girls are exempted from the scope of the Bill, there may be some cases in which protection may be wrongly withheld. But to extend the provisions to married females would give rise to great uneasiness and dissatisfaction among the general public. My Lord, for these reasons I hope that the provisions to which we have referred and the proposals we have put forward will be considered in a fair and impartial spirit, in a spirit which will pay due regard to the actual conditions of the country. It should be remembered that the prostitution that we are endeavouring to check does not prevail to the extent that the speeches of some Members of Council would lead one to think that it did. I hope it will also be remembered that in this country this measure is the first of its kind, and that the necessary auxiliaries which exist in England, such as homes, industrial schools, reformatory schools and other institutions, where females rescued under such Act can be sent, exist here in an infinitesimal degree. I hope it will be remembered that the conditions of this country with its religious differences so marked are such that in this case Government should take every precaution that there should be no ground given for creating a feeling in the minds of the people that this Bill which is intended

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to be a purely humane measure might lead to proselytising. With these remarks, My Lord, I conclude in the earnest and confident hope that the measure will receive the fullest consideration from all gentlemen to whom it is being referred and that it will be placed on the Statute-book with such modifications as their combined wisdom and experience may recommend."

The Hon'ble Mr. Surendra Nath Banerjee:—"Sir, it is somewhat unfortunate that in the course of the discussion references should have been made to the Hindu Shastras followed by counter references to the Shastras. This is not a religious discussion. We have nothing whatever to do with the Shastras. Here is a piece of social legislation which, I do not think I am exaggerating the situation when I say, has been forced upon the Government by the insistence and pressure of public opinion and by the appeals of our social leaders. We have therefore nothing to do with Shastras; we have to do with Hindu sentiment and Hindu Shastras only in so far as they affect Hindu sentiment. My friend on my left (Maharaja of Nashipur) made a remark that he would rather see the rescued girls proselytised than that they should be sent back to their evil surroundings. It is a noble sentiment. I deeply sympathise with it. It is worthy of the philanthropist but not of the practical administrator or the statesman. For, Sir, if the impression went forth that this Bill leaves loopholes, affords opportunities for conversion, it would array the united sentiment of Hindus and Mohammedans against the law and make it inoperative. What we have to see to is that social feeling is conciliated, susceptibilities are not hurt and an important piece of legislation launched under sound and satisfactory conditions. It has been agreed in the course of the discussion which has taken place, and I am certain that the verdict of the country will be the same, that the most important part of the Bill is that which relates to the rescue provisions. Now, how does the Bill stand as at present? The magistrate may make over a rescued minor girl to a person professing the same religion or an institution of the same religion; and if such a person or such an institution is not forthcoming, the law does not provide further: she is to be sent back to her evil surroundings. I ask, is that a satisfactory condition of things? Ought we to be content with it? Ought we not to proceed a step further? Therefore, Sir, my friends and myself made the suggestion in Select Committee that when a suitable person or a suitable institution is not forthcoming, professing the same religion, the girl should be made over to a person or an institution of a different faith, subject to the guarantee that she will not be proselytised before she has attained the age of majority. The Hon'ble Home Member says that this is an impracticable proposal; it will never be carried out. Has it been tried? It could not have been tried. Many proposals seem, at the first blush, to be impracticable; because the imagination plays on an unknown situation and exaggerates its difficulties but when put to the actual test of practice, those difficulties disappear and the proposal seems to answer well enough. I am sanguine, Sir, that if this proposal is accepted, if the guarantee is taken, that the provision will be workable. In England it has worked well, as my friend has pointed out that this is substantially the law of England: why should it be found inoperative in this country? Are the conditions so fundamentally, so essentially different? Human nature is the same all the world over. Human susceptibilities are as strong, or as weak, in regard to religious matters here as elsewhere. We are not differently constituted from Europeans who, after all, belong to the same race with us. Therefore I feel that when we find that a proviso of this kind has worked successfully and satisfactorily in England, it will be attended with the same results here. Then, Sir, I feel that for the satisfactory working of these rescue provisions, it would be necessary to provide rescue homes. A suggestion was made, I think, in Select Committee, I do not know whether the suggestion has been repeated here—that the Government should provide rescue homes. The Hon'ble Home Member has told us to-day, that that is absolutely out of the question. Why it should be so, I fail to see. Suppose the whole community, Hindus, Mohammedans, Christians, combined in an appeal to the Government to provide rescue homes for these unfortunate fallen girls; will not the Government, a Christian Government, a wise and beneficent Govern-

[18TH MARCH, 1914.] [*Mr. Surendra Nath Banerjee; Maharaja Manindra Chandra Nandi; Rai Sita Nath Ray Bahadur.*]

ment, a Government which is the trustee of the tax-payer's money, respond to that appeal? I think it would be bound to respond to me so. The Government provides reformatories for boy convicts; why should not they provide rescue homes for these girls? There is nothing objectionable in principle, and if the tax-payers combine and make an appeal to the Government, I venture to think that it will be irresistible in the case of a Government such as that which we have, especially in the case of a Government which will have provided us with this piece of legislation.

"Sir, I have sufficient reliance in the public spirit of my countrymen to believe that when this Law is passed, rescue homes will start up in different centres. We already have a rescue home in Dacca to which I alluded in the course of my speech at Simla. After this Bill had been introduced, the authorities of that rescue home placed themselves in communication with me. They were pleased at the idea that there was to be legislation on the subject. They are willing to co-operate with the Government. If the Government will not provide rescue homes of its own initiative and bearing the entire cost, at any rate the Government can subsidise such homes.

"Then, Sir, we have the Calcutta Orphanage, an admirable institution, doing good to a large number of orphan boys. That orphanage might extend its operations and start a home for these unfortunate girls. Therefore I do hope and trust that as the immediate result of this legislation, rescue homes will spring up and the difficulties which seem to surround the problem at the present moment in connection with the rescue provisions will altogether disappear. There has been a good deal of controversy, somewhat heated controversy, in this Council Chamber to-day, which I hope we shall all forget and forgive. I hope that, when the Bill comes back after this appeal to the public judgment and the public sense of the country, we shall all put our heads together to devise a measure which, successfully worked out, will be attended with unspeakable good to an unfortunate class of our people. I hope all dissensions will be forgotten, all controversies will be laid aside for the common good and the benefit of a section of the people now despised and fallen."

The Hon'ble Maharaja Manindra Chandra Nandi of Kasimbazar:—"Sir, while I am in cordial agreement with the principle underlying the Bill, there are provisions in it which are still open to grave objection. In the first place, I cannot support that clause of the Bill which provides that, under no circumstances should a minor girl be made over to the custody of a person who is not of the same religion. It makes the scope of the clause unnecessarily narrow. Cases may be imagined in which persons professing the same religion will not be forthcoming to take charge of the rescued girls. In view of such a contingency, which may very well happen, it is absolutely necessary to so modify the Bill as to empower the magistrate to make over the minors to the custody of persons or institutions willing to take charge of them, even though they do not profess the same religion; of course some safeguards should be provided to secure that the religion of the rescued girls be not interfered with. Here I may be permitted to express the hope that both Government and the public will take early steps to start free boarding schools and orphanages for these rescued girls."

The Hon'ble Rai Sita Nath Ray Bahadur:—"Sir, I rise to give my whole-hearted support to the principle of the Bill now before us, especially in the form in which it has emerged from the Select Committee. I congratulate Mr. Dadabhoj, whose absence in this Council Chamber at the present time I sincerely regret, that his efforts in this direction have been recognised by the Government of India. The Hon'ble Home Member has not seen his way to accept the whole Bill, as it was introduced by Mr. Dadabhoj in the Council on the 18th September, 1912, but he has accepted the principle underlying it, namely, the desirability of strengthening the law, safeguarding minor girls and of affording some facilities for the rescue of children from undesirable surroundings. But as to the details of the Bill there may be divergence of opinions according to the different standpoints from which several persons see it; but there can be no denying the fact that the Bill, especially in its present form, is a move in the right direction. There are two or three

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points which, in my humble opinion, require careful consideration and handling and accordingly I beg to make two or three suggestions.

" My first suggestion is that a child shall not be treated as coming within the scope of clause (a) except on a complaint made by the child herself if the only common prostitute whose company the child frequents is the mother of the child. Sir, the reason for my making this suggestion is simply this, that it would not do to enforce morality by legislation and to attempt to make people moral by law. It defeats its very purpose. The provision contained in the section, if carried into effect, may, I fear, go to outrage motherly feelings and may become an engine of oppression in the hands of unscrupulous persons. We may not have, from a puritan point of view, much regard for the motherly feelings of these wretches, which are after all undoubtedly tender and sacred; but I say it would be cruelty to ignore them altogether.

" My second suggestion is that the rescued child should not be made over to a person or body professing a different faith.

" Sir, the Hon'ble Home Member, in the Statement of Objects and Reasons, was pleased to observe that we should make a cautious advance in this direction. He is perfectly right in saying so. We should do nothing which may give rise to a feeling of lurking suspicion in the minds of the people, especially when, in a matter like this, we have to deal with such tender and delicate things as motherly feelings and religious susceptibilities. We have to remember that in our country the children of prostitutes are looked down upon with a certain degree of inborn contempt and no respectable person, however otherwise magnanimous and generous, would venture to take such a child and give it shelter within his own family circle. If he does that he is sure to court social odium, nay even social ostracism. Not only his own caste people, but respectable people of other castes, may boycott him. Now, it is well known that in our country there are no well organised institutions or homes having sufficient funds at their disposal for giving shelter to these children. True it is that there are powerful and sufficiently organised bodies professing a different faith which can very well and which would be ready to take care of these children. In these circumstances the result, I fear, would be that in a case coming under this section, in case people of her own faith did not come forward to accept charge of the child, the trying Magistrate would have no option but to commit the child to the custody of the representatives of these bodies, whereby not only the motherly feelings of the child's mother would be outraged, but her religious susceptibilities as well.

" Sir, my fear is, though it may be wrong or erroneous to entertain such a feeling, but there it is, that the enforcement of this provision may in several cases end in the conversion of the poor girls into another faith. I therefore beg to propose that in no case should the custody of a girl be given to a person professing another faith.

" Sir, as a Hindu I cannot acquiesce in a provision of law which will allow a Hindu girl to be made over to the custody of a man professing a different faith and thus facilitate her conversion into that faith.

" My third suggestion is that the scope of this Act should not be extended to married girls. I beg to point out that it would be going too far if the effect be to include married girls within the scope of the Bill. It would, I say, cause great heartburning.

" With these few words I beg to support the principles of the Bill."

The Hon'ble Mr. Madhu Sudan Das:—" Sir, I should have been very happy indeed if the discussion in this Council Chamber on an important social reform like this had not been characterised by an amount of heated discussion or excitement. An important social reform like this, when being discussed by non-official members of this Council, ought to be discussed with the utmost calmness and judgment and free from any excitement whatever. We, non-official members, ought not to lose sight of the fact that, whatever may be our individual faith, whatever our individual religious persuasion, we represent other people who have other religious persuasions and other religious faiths, and when we speak from our seats here, we are not only speaking in favour of the faith we have, but that we are as well speaking for those who are

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not of our own faith ; and therefore the sentiments that find expression from us ought to show a regard for the religious feelings of other people. These remarks might not perhaps apply to my Hon'ble Colleagues who have been returned by purely Mohammedan electorates ; but at the same time I have no doubt they also realise the importance of paying sufficient regard to the religious feelings of other people, if for no other purpose, at least for the purpose that the work of this Council may be of a harmonious character and that this enlarged Council may fulfil the hopes which were entertained, when it was created, of its being a means of useful and helpful co-operation by non-officials with the Government. During the discussion there has been—at least I have noticed in some speeches—an under-current of apprehension that this Bill provides for social reform which will ultimately be used as a means of converting people to Christianity. The Hon'ble the Home Member in his speech distinctly assured us that Government does not consider this in any other light than as a purely social measure ; that Government is eagerly looking forward for help and support from the non-official public, and Government believes that the success of the measure would depend upon the amount of support it received from the non-official public. I do not understand why, after having these assurances, there should have been this under-current of apprehension that there is some other motive of a religious character underlying this Bill. I for one do not believe that a Christian who utilises the opportunities which he has as the guardian of a person reclaimed from an unfortunate life, for the purpose of making a proselyte of her, really understands what Christianity means. Such a person ought to study the Life of Christ. If a person does not understand that Christianity has a broad humanitarian basis which will give accommodation to all classes of people, Mohammedans, Jains, Hindus, everybody, where they can meet, where they can put their shoulders to the wheel for the progress of humanity, where they can all unite together and put their united hands to the lever which uplifts humanity, if a person has not understood that Christianity affords such a broad humanitarian basis, he has yet, I say, to study the Life of Christ. I do not know why there should have been such an apprehension of conversion to Christianity. I do not know what led my Hon'ble Colleagues to believe that Government was favourably disposed towards Christians. We had an answer to a question of mine as to what special provision Government had made for the education of Christian boys and girls, and the answer was that the Government of India had no information on the subject—”

The Hon'ble Rai Sita Nath Rai Bahadur:—“ May I rise to a point of order. No one from the Hindu side says that it would be used by Government as an instrument for conversion.”

The Hon'ble Pandit Madan Mohan Malaviya:—“ May I also say a word. The Hon'ble Member has said that there has been an under-current of apprehension in some speeches that the motive which underlay it was that this would be used as a means of conversion, or words to that effect. I do not know of any Member who ever suggested that there was any motive like that underlying the action of Government. I think the Hon'ble Member is entirely wrong there.”

The Hon'ble the Vice-President:—“ I am sure the Hon'ble Member will not pursue the point.”

The Hon'ble Mr. Madhu Sudan Das:—“ If that is so, I am really glad. Then conversion would mean conversion to any other religion other than Christianity, but during the discussion it has been mentioned that protection is needed for Hinduism and Mohammedanism. It has also been said by my Hon'ble friend in front of me that the difficulties which appear now would disappear when we came to the practical stage of the working of the measure. I do not know whether in such cases the difficulties loom large only in the imagination and disappear when we come to the practical working of a measure. My experience is that difficulties appear very small at the outset, but when you come to put a measure into practice the difficulties are very much greater. The real question is if there has not been any apprehension on that account, then really we are driven to this position that religion means different phases

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of faith within the pale of Hinduism. Hindu is an indefinite term and so is the religion itself an indefinite term. What does religion mean? Does it mean the different phases of Hinduism or—”

The Hon'ble the Vice-President:—“Order, order! We cannot get into a discussion as to the meaning of ‘religion’ on a motion to amend the Indian Penal Code. The Hon'ble Member must keep to the motion before the Council.”

The Hon'ble Mr. Madhu Sudan Das:—“I am glad the Hon'ble Pandit Madan Mohan Malaviya referred to a passage from the *Mahabharata* when he said there was mention of an incident where for a single simple act of hospitality a person in an infamous life secured salvation.

“If we accept that view and extend hospitality to these girls, I suppose their salvation from the degraded life they now follow will be secured; and that would in no way conflict with the idea of Hinduism. We have had assurances here that actual rescue homes will be started and that public charity will come forward in aid of a scheme like this. Not only that, but we have among us, among the non-official members here, a noble example—the Hon'ble Sri Ram Bahadur, who has started a home of this nature for the rescue of children of this description. It has been in existence, in working order, for two years; and I understand it is working successfully. We are all anxious to eliminate the religious element from this discussion. If friendly co-operation between all classes of the people is extended into the practical working of this reform, and all religious differences eliminated, we shall find no difficulty whatever in working this measure, and I hope that the promises of co-operation, of friendly help and subscriptions we have had in this Council will minimise such difficulties as may arise. I do sincerely hope that there will be no real difficulty in working it, and perhaps there will be more help forthcoming in support of the measure than we at present anticipate.”

The Hon'ble Rai Sri Ram Bahadur:—“Sir, I want to make a few remarks in connection with the subject which is now before the Council. My opinion, Sir, on this problem has been given some years hence. In the year 1911 a despatch came from the Secretary of State for India addressed to His Excellency the Viceroy (No. 45 of 3rd March, 1911), in which this very question was raised and the opinions of the Local Governments were asked whether sections 372 and 373 of the Indian Penal Code were sufficient to protect minor girls. The local authorities were good enough to ask for my opinion, and the views which I submitted then are adhered to by me even now. I may remark, Sir, that so far as the United Provinces are concerned, we had no such practice as the dedication of the *Devi Dasis* as we find in the south of India. But there are certain classes of people in the United Provinces also, regarding whom such change in the law is necessary. In the hill districts of Almora, Naini Tal and Garhwal there is a class of people called Nairs. They bring up their female children in the profession of prostitutes. I then suggested that a law should be passed to protect minor girls of such classes. I heartily support this Bill and the object with which it has been brought into existence.

“Sir, there were objections raised from abroad as regards certain of its provisions, but the Bill, as it has now emerged from the Select Committee, will, I hope, be acceptable to the public at large and especially to Hindus.

“Then there remains, Sir, the question—If these girls are taken away from the guardianship of their natural guardians, how should they be brought up? I suggested then, and I suggest now, that the Government should come forward to supplement private philanthropy in this respect and have homes established for these girls. Let me here refer to the pleasing ceremony which was performed by Her Excellency Lady Hardinge yesterday evening, at which that noble and high-minded lady, who has shown herself a true and great benefactress of the women of India, laid the foundation stone of a Medical College for women. The plan that she described showed that separate arrangements will be made for Hindus and for Mohammedans, and that every woman who goes there to learn the healing art will be accommodated in boarding houses constructed separately for the followers of different religions. The Government is going to give a lakh of rupees for this noble purpose. That shows how solicitous

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the Government is to protect the religions of the different sections of the community. I submit, Sir, that the aid of the Central Government and of the Local Governments in their respective Provinces by establishing homes will be very helpful in the work of rescuing these girls. These homes should be provided by Government as well as by private persons and bodies. I therefore, Sir, welcome this Bill in the shape it has now come from the Select Committee."

The Hon'ble Mr. Pandit:—"Sir, I am the only member of the Select Committee who, having dissented to a certain extent from the report of the majority of his colleagues, has not yet taken part in this discussion. The Hon'ble the Home Member—I believe with the idea of taking opinions from Hon'ble Members of this Council which might be helpful not only to himself but to the community at large—invited them to express their views upon the provisions of this Bill and in particular upon the clauses known as the rescue clauses. Sir, as I stated in my minute of dissent, I fully support the principle of this Bill, and I also appreciate the changes that have been made during its passage in Select Committee. My friends Mr. Dadabhai and Mr. Mudholkar both of them pressed upon the Council the necessity for some such legislation. Of course, the details of their schemes varied from and were not all embodied in the present Bill; but the object which the Bill has in view has, I am perfectly certain, the fullest sympathy of everybody in this Council and all enlightened opinion outside it. The question only is as to whether that object is being fulfilled by the provisions which have been placed before the Council by the Select Committee.

"The first point to bear in mind, in my opinion, is that there are certain principles which must be kept clearly in view in regard to a legislation of this description.

"The aim that girls who are likely to be trained or who are actually being trained to a life of infamy, should be rescued from their evil surroundings, must be kept clearly in view. Then the desire to carry out this measure of social reform without unnecessary resentment being caused to the communities concerned is also to be placed in the forefront of our consideration. And lastly we have to see that the provisions which we make ought to be confined to the object which we have in view, and in our eagerness to prevent any loophole remaining there for any stray cases of immoral surroundings continuing their practice, we should not go beyond the scope of the Bill.

"With regard to the first point I venture to submit that the Government themselves have realised that the attainment of the object depended very largely upon the existence of facilities for removing these girls from their evil surroundings and placing them in purer surroundings. In the Bill as it was first introduced there was a provision that the magistrate might not take action unless he was able to find proper custody for the girl to be removed. In the concluding portion of the Hon'ble Member's speech when the Bill was introduced at Simla last September, the Hon'ble Member said:—"In particular the rescue provisions if incautiously worked might give rise to resentment among the classes concerned, and for this very purpose we have at present enabled action under them to be taken only upon complaints made upon oath before a Presidency or District Magistrate or upon the knowledge and suspicion of those magistrates." Further on the Hon'ble Member said "It is certain that as opinions on these subjects become more advanced among the people at large, action under the rescue section will also become more frequent. Societies for the protection of children may come into existence in the large towns where such evils are most pronounced. It is a matter in which, however much we may lament the fact, the progress must be slow. It is on the awakening of the public conscience, not merely among the enlightened few but among the masses that the progress must depend. Government by enacting laws and creating machinery may help to guide the public conscience but it cannot stimulate it; and we must look for that stimulation to those members of the community whose consciences have been aroused to the serious nature of the evils which this legislation is designed to combat."

"Now, Sir, the Hon'ble Member in the speech which he made this morning pointed out that a great deal of reliance was placed in enacting the provisions of the Bill as it was introduced upon the existence of charitably disposed persons

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in the country, not necessarily institutions but individuals, who perhaps, having no children of their own, might come forward to accept the custody of a child rescued from such immoral surroundings; and that it was believed by these means the object might be more generally fulfilled than by any others, knowing, as we do, that the provision for homes at present in the country is not adequate to the needs. That undoubtedly is one of the ways in which this beneficent object can be fulfilled; but several Hon'ble Members who have spoken on to-day's motion including those gentlemen who have been most eager that the advance in this direction should be as rapid as possible have realised that it is difficult to find individuals of this class who would be willing to receive girls rescued from such surroundings. I do not say that there will not be a few broad-minded people who would come to the rescue of these poor unfortunate creatures; but the number apparently will not be large by reason of what may be considered tenderness for the opinion of unenlightened people in the neighbourhood. The greatest hope of the beneficent purposes of this measure being achieved lies really in institutions being created which would provide refuges for these girls. I fully recognise that, situated as the Government are at present, it is difficult to expect Government to start institutions managed by themselves; for there will be numerous difficulties which it would be difficult for Government to cope with; and which, although they may exist even in the case of private individuals, will at least not be so formidable. The great bulk of opinion that has been received on this point has been based upon the expectation of these homes being brought into existence. I have here before me the opinions received from District Magistrates and other gentlemen from *mufassal* stations who have pointed out that, with the assistance of leading gentlemen in various places and with the stimulus which might be given by the District Magistrates themselves, homes might be brought into existence, managed by private enterprise, which will supply the want that at present exists.

"Sir, a great deal of discussion has gone on upon matters, such as the prostitute's position in certain communities, which are not altogether relevant to the issue before us to-day. I venture to think that the provisions as they stand at present do certainly limit the operation of these beneficent clauses to many cases. No doubt by the provision as it stands, institutions managed by individuals professing the same religion as that of the girl to be committed to their custody would be the most likely agency to be preferred by the District Magistrate as the custodian willing to take charge of the girl subject to any conditions the District Magistrate may annex. But I submit that the provision for homes of this character run by members of the particular community would not be possible in every place. It would be possible in several of the presidency towns and other large centres of population such as the Hon'ble Mr. Banerjee has referred to and my friend the Hon'ble Mr. Sri Ram has referred to; but if we want to provide for adequate action being taken under these provisions and these girls being placed in a suitable environment, then we must rely also upon homes managed by persons of different religions, who have no desire to favour any particular religion at the expense of another, and whose sole object is to prevent these girls going back to immoral surroundings. Institutions like these are in existence at present. There are institutions run in the Bombay Presidency by the Society for the Protection of Children, and there is a similar society working in Calcutta; and I am sure that in Madras and other places also similar institutions are working, though on a smaller scale; and I fully believe that if we are to achieve the object of this Bill, in a great measure it will be achieved by allowing the girls to be handed over to secular institutions, whether they are managed by members of the same community to which the girl belongs or by a mixed body of people, so long as there is no apprehension created in the minds of the people of any attempt at proselytization or conversion from one faith to another. This is the view which I submit, Sir, will meet with the fullest approval of the country as a whole.

Sir, it is not my desire at this late hour to go into the details of the various criticisms that have been offered to the Bill as it stands at present. I only submit that it is the wish of everyone that so far as the girls are concerned with regard to whom an offence has been committed under sections 372 and 373 of the Penal Code that it is in the highest degree desirable that an asylum should be found for them. With regard to other girls

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who have not actually fallen or who have not been thus disposed of or obtained, but with regard to whom there is an apprehension of their falling into a life of shame, it is also desirable that provision should be made against their continuing in that environment or their being led into a life of infamy. I would even go further and not confine myself to an institution managed by a mixed body such as I have described; if there is no member of the community coming forward to receive the girl, if the relations of the girl have confidence in a neighbour or other person who belongs to another religion, and if such relations will consent to the girl being given to such an individual, I would have no objection. Personally, I think it is only fair and just that if the community which claims certain rights over individuals in order to keep them in the fold will not exercise the rights and will not make the necessary provision, and if the members of the family to which the girl belongs cannot make provision by pointing to a suitable person, then with their consent a person of another religion may be selected.

“ It is true that in order that this legislation should be brought into force with the best chance of success, and in order to prevent irritation in the country that it would be desirable that in making a girl over to an institution or person, there should be some provision for an undertaking being given that the girl's faith shall not be interfered with. I fully realise that the rescued girls will belong to different religions and as there are sub-sects, etc., it would be difficult to get the managers of institutions or other persons to make full provision for a girl to pursue her religion, but short of that if these institutions or persons are willing to take the custody of a girl with such an undertaking as I stated—there are persons, including institutions; engaged in philanthropic work who would be willing to come forward and give an undertaking—it might easily be arranged without throwing too great a burden upon them. A great deal has been made of the difficulties that would be experienced in such a home and of the fact that the customs and practices of the various communities have been so much interwoven with religion that it is difficult to dissociate religion from ordinary practices, but I would beg to point out that when girls of this description are removed, the community will not expect so rigid and minute an adherence to their practices, provided they are satisfied that their religion is maintained intact. We are aware that in educational institutions, hostels and other similar places, the members of different communities and religions live together and no difficulty is experienced from the point of view of religion. The Hon'ble Mr. Sri Ram has only just now referred to an institution which is in embryo, which proposes to provide for women of various communities residing under one roof and carrying on their studies in Medicine. If there is no difficulty in this project, I anticipate very little difficulty in the proposed arrangement, and such difficulties as there might be found would not I think be insurmountable. Moreover, it will be found that if these institutions started by leading gentlemen belonging to different communities and religions and inspired by the noble aim of rescuing these girls from evil surroundings carry on their work satisfactorily, it would not be a forlorn hope to go up to Government and ask for assistance, pecuniary or otherwise, for carrying forward this work and furthering the object which Government has at heart and which Government would not undertake directly by reason of the difficulties I have mentioned. From this point of view there seems no reason for entertaining pessimistic views with regard to this matter. If we extend the sphere of the custody to which the girl should be made over to institutions such as I have described, I feel sure that the purposes of the Bill will be served in a large measure. I do not think that restrictions with regard to these undertakings or the conditions which might be annexed or the penalties prescribed for a breach of these conditions would deter such institutions or such philanthropically disposed gentlemen from undertaking the custody of the girls.

“ There is only one further point to which I wish to refer. In my minute of dissent I pointed out that the Select Committee might well have taken advantage of the opportunity of providing that the ex-matrimonial age of consent be raised to at least 14 years of age. There is a strong body of opinion on this subject and gentlemen like Sir Protul Chandra Chatterji, a former Judge of the Punjab Chief Court, and associations for the protection of children started in Bombay and social reformers generally have been pressing this

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matter. I fail to see why in this particular matter the Government should not go a step further since it is now about 20 years since the last Act was passed, which raised the age of consent to twelve.

"The motion which my Hon'ble friend makes asks for a republication of these provisions in the country.

"I feel sure that now that the Bill is going to be circulated to the country—and it will probably be another year before it is passed—there will be ample time for the country to consider these provisions carefully. I find that in some of the opinions that were received on the Bill, the gentlemen consulted complained of the shortness of time allowed by reason of which they were unable to study the provisions of the Bill and give their well-considered opinions. Thus, republication will be an additional advantage. Having expressed my views on the subject, I support the motion for recirculation."

The Hon'ble Srijut Ghanasyam Barua:—"Sir, I rise to speak a few words only because the Hon'ble Home Member wishes opinions of all shades to be recorded in this day's debate as far as possible. I have listened with great care to the opinions expressed on both sides and although I am in favour of having as speedy reform as possible in many matters like this, I do not lose sight of the fact that in a country like India we may not be able to move so fast as we should like. At the same time if this Bill is passed into law—and it appears that none of the members on the non-official side have opposed the measure, all of them want the Bill—we must see whether the Bill can be brought into operation by complying with all the religious sentiments which have been urged against it. I have not the slightest objection and I think it will be a great safeguard to regard all sorts of public, and especially religious, opinions that can be advanced in the matter. I think the provisions that my Hon'ble friend Pandit Madan Mohan Malaviya wishes to be inserted are provisions which will greatly help in alleviating any apprehensions on the part of the different religious communities in India who may look upon the Bill with suspicion. But in spite of all that has been said I feel that if the provisions are left there and proceed no further, the Bill may really be inoperative, and the other object which the Bill seeks, namely, to stimulate our own patriotic instincts to start rescue homes for girls of our own religions, will not be attained. I concede that all the provisions which my friend wishes to be inserted are, I think, very suitable so far as they go. The rescued girl will, if possible, be made over to one of her own relations; if such a relative is not available, then she will be made over to some one of her own religion; if such a person is not available, she will be made over to a suitable person of another religion who will undertake not to convert her to another faith before she attains the age of majority. But if all these are not available what is the next step to be taken? The girl must be left where she is and the Magistrate will have no power to effect her rescue. If my friends want those provisions, I think there should be another provision that, on failure of all these, the girl may be made over to any person at the magistrate's discretion. That will be the only sensible view of the whole case. All my Hon'ble friends depend upon future expectations; if the Bill is passed, and if magistrates have occasion to make over these girls, rescue homes, they think, will spontaneously spring up. But if there is not something to rouse the people to make these rescue homes spring up, why should they move in the matter? My Hon'ble friend Rai Sita Nath Ray Bahadur has admitted that all respectable people would shirk from undertaking the charge of such girls on account of the odium attaching to them; and perhaps other people also, even among her relatives will not like to associate themselves with a girl who has a bad reputation behind her. In such cases we shall have to depend upon philanthropic institutions. The different religions of India, including the Hindu and the Mohammedan, have not as yet been able to establish effective institutions of that sort, and if they have not the fear of girls of their own religion being converted to other religions or to the Christian faith, why will they exercise their own efforts to save their girls from conversion and effect the rescue that is intended? Therefore, while I give the greatest weight to the contentions that have been urged against the Bill, and while I am in perfect sympathy with all the saving provisions that are proposed to be inserted and recognise the effect that they will have in a

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country like India, comprised, as it is, of people of so many different sects and faiths, I also at the same time see the necessity of leaving the Government capable of administering the law effectively if the request for insertion of the provisions which have been proposed has to be complied with. And therefore, although opinions have been given on probabilities of the future, I think that in order to make those probabilities certain and to make the Bill effective, it is necessary that, while those provisions are inserted, the last provision should also be inserted, that is that failing all these cases, the Magistrate should have the power to hand over the girl to such person or institution as he thinks proper. I heartily support the Bill, but while I am prepared to be very cautious and not anxious to move very fast, I should also like to be confident that the Bill, if passed, would be a real step towards our advancement. It should be a real advance and not a mere dead letter in the statute-book after it is passed into law in this Council.

“With these remarks I support the motion for the Bill being recirculated. With regard to the opinions that my non-official friends have expressed, I would ask them to reconsider their views and to see if, in their own interests, they should not have such a provision as the one I have indicated.”

The Hon'ble Sir Reginald Craddock:—“Sir, I think it is a matter of great satisfaction that we have been given an opportunity of hearing so many shades of opinion from different Hon'ble Members in this Council. I think that where a matter has been before the Council and is not a matter of new introduction, it would be a lamentable thing if the members of the Imperial Council should ever hesitate to express their opinion upon it. In this case the matter has been before them for some considerable time (a matter of years almost), and I should have been extremely surprised if the members of this Council had refrained from expressing each man his own opinion. I consider that the debate has served a very useful purpose and that the opinions here expressed will be of great advantage both to the Government and to all those who will now be called upon, if this motion is passed, to express their opinion upon the Bill as it stands amended in Select Committee, upon the minutes of dissent and upon the various suggestions and comments that have been made in the course of this debate.

“I would like to pay special attention in my reply to the speeches made by two Hon'ble Members, the Hon'ble Mr. Vijiaraaghavachariar and the Hon'ble Mr. Madan Mohan Malaviya. I do not agree with the Hon'ble Mr. Das that any religious heat whatever has been generated during this debate. I think that the Hon'ble Members in their speeches have recognised that, and where there was some warmth expressed by the two Hon'ble Members whose names I have mentioned (I hope they will not take it amiss that I do consider there was some warmth), I did not take that warmth to be due to the fact that there was a religious controversy before the Council, but simply to the fact that somehow or other they got the idea that they were being blamed or attacked for their action in Select Committee. Well, Sir, I have no idea where they got that impression from. I was careful to point out in my earlier speech that I desired to attach no blame whatsoever to any Hon'ble Member who thought it his duty to warn us that there was any danger in the measure we proposed. All that I wanted to do was to recognise that such warnings had been given, that such things were felt, and I wished to have a general expression of other Hon'ble Members of the Council as to whether their opinions coincided with those which had found expression both in the discussions of the Select Committee as shown by their report and in the minutes of dissent. I do not think that any attack was ever made or intended upon the two Hon'ble Members whose names I have mentioned, and therefore I think that the slight degree of warmth which they displayed in their defence was not called for by anything in the speeches made. Of course I do not for a moment propose to enter into any controversy as to what the meaning is of passages in the Hindu Scriptures.

“Now there are certain points which were made the subject of somewhat definite assertion in the speeches of the two Hon'ble Members concerned. I think I understood them correctly to say that the English Act, which was quoted as a precedent, did not contemplate the possibility of a child being made

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over to a person of another religion without any engagement on the part of that person to bring up the child in the religion of her birth—”

The Hon'ble Pandit Madan Mohan Malaviya:—“May I point out, Sir, that I said that the English Act did not contemplate an English child being made over to a different religion like the Mohammedan religion or the Hindu religion. I pointed out that there were only differences of persuasion, Roman Catholic or Protestant or other denominations.”

The Hon'ble Sir Reginald Craddock:—I am not able to tax my memory sufficiently as to exactly what the Hon'ble Pandit said, though of course I accept his own statement of it, but I am able to state that the Hon'ble Mr. Vijiaraghavachariar, as I understood him, did make such a statement that there was no law in England or anywhere else to the effect I have described.”

The Hon'ble Mr. Vijiaraghavachariar:—“That is not what I said.”

The Hon'ble the Vice-President:—“Order, order!”

The Hon'ble Sir Reginald Craddock:—“I did not take down the *ipsisima verba* of the Hon'ble Member, but that was the impression made upon me. That I was alleged to have made a mistaken statement regarding the English law when I said in my speech that there were three alternatives: the first, preference to co-religionists; the second, preference to the person of another religion who engaged to bring up the child in the religion of its birth, and failing those two, it might be given over to a person of another religion without such condition. That was the impression made upon me by what the Hon'ble Member appeared to be contending, and I think therefore that, in case that same impression has been made on the Council, it will be well for me to explain section 23 of this Act to which reference has been made. It runs:—

In determining on the person to whose care the child or young person shall be committed under this part of this Act, the Court shall endeavour to ascertain the religious persuasion to which the child or young person belongs, and shall, if possible, select a person of the same religious persuasion or a person who gives such an undertaking as seems to the Court sufficient that the child or young person shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.

“Of course the words ‘if possible’ there explain the whole meaning of the section. But there is another sub-section to that section which goes on to say:—

In any case where the child or young person has been placed in pursuance to any such order with a person who is not of the same religious persuasion as that to which the child or young person belongs, or who has not given such undertaking as aforesaid.

“That of course makes it absolutely plain that the law contemplates a person being handed over without any such undertaking. And there is a third sub-section which makes the meaning of the law still clearer:—

Where a child or young person has been placed with a person who gives such undertaking as aforesaid, and the undertaking is not observed, the child or young person shall be deemed to have been placed with a person not of the same religious persuasion as that to which the child belongs as if no such undertaking had been given.

“That simply means that, for the purpose of preference, in the case of a person who has given no undertaking or a person who has given such an undertaking but has failed to observe it, if somebody who is either of the same religion as the child or who will undertake to observe these conditions applies, then the possession of the child may be transferred.

“Of course there can be no doubt whatsoever as to what the English law is, and I think that the Council should fully understand this point and that there should be no misapprehension about it.

“Then, Sir, in connection with this section and the remarks that have been made by various Hon'ble Members as to the ease with which engagements of this kind could be made, I should like to point out that none of these sections use the word ‘conversion’ or refer to the word ‘conversion.’ The engagement is, of course, that the child shall be brought up as far as possible in its own religious persuasion. Now it would be extremely difficult to insert in any measure this provision against conversion. There may be active conversion and there may be

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passive conversion. The child may be converted by example and it is very difficult to say how and when conversion came about, or to make definite engagements which will form the subjects of proceedings in the law court on such a difficult and delicate subject, and the English law does not attempt to refer to the obligation of conversion or non-conversion. The whole undertaking is that the child or young person shall be brought up in accordance with its own religious persuasion; that is all. And I indicated in my earlier speech the various kinds of differences in bringing up a child which would arise in England. The difficulty is further explained by a remark from the Hon'ble Pandit when he said that in cases of children whose religion was not known and could not be ascertained, he would still insist upon a non-conversion engagement. I do not know how you can convert a person of no religion; or whether if the child had no religion at all the term conversion could be used in that manner. But he was careful to observe that he did not mean that the child in that case should be brought up in total irreligion; it should be instructed about a God, about its duty and so forth. It is easy to perceive that if instruction of that kind were allowed it would be extraordinarily difficult to say how far the child had been converted or not and it would be extraordinarily difficult for the person in charge of it, who had a genuine faith in his own religion, to keep himself from colouring the mind of the child with the general features and tenets and practice of the religion to which the custodian himself belonged. On this subject, however, and with reference to various suggestions that have been made by some Hon'ble Members as to the possibilities of non-sectarian institutions or possibly—I do not know whether the term exists, but I think that it represents what is meant—Pansectarian institutions; if these should come into existence, it is suggested that they would afford the best means of rescue for these children which cannot be attained under existing circumstances. Well, Sir, we have not, on account of the difficulties which I have explained, included so far in the Bill any provision about secular institutions, about sectarian institutions, or about Pansectarian institutions. But the Bill is being circulated; these difficulties will be before the Local Governments and the public, and the door is not barred to any solutions of that kind that may be forthcoming. With reference to the difficulties I have explained, we do not like to include a measure of that kind at this stage: but we are very anxious, as I have explained more than once, to try and find a solution for these difficulties, and we hope that, in the course of re-circulation and thorough discussion, some solution may be forthcoming.

“ But there are some matters on which I do not think that I would like to offer any possibility of the Government changing its mind. One of these matters is with reference to the proposal to exclude wives from the protection given by the section, and not only wives, but, as I understand Hon'ble Members, widows also. Well, Sir, I can hardly think that the Hon'ble Members who put forward this proposal can really have contemplated its effects. In cases where a wife is placed in immoral surroundings by a husband knowingly or intentionally, I cannot imagine that there should be any reasonable objection to her rescue. Surely Hon'ble Members can scarcely contend that a child wife is so much a chattel of her husband's that he may even dispose of her to a brothel and yet be within his rights as a husband. Surely they do not consider that, while some infamous husband who may have bartered his wife for gain and placed her in charge of a prostitute can be sent to jail, the child must remain in the brothel simply because he put her there. But that is the only consequence of the exemption which they desire to place in this Bill. Apart from these considerations, it is easy to see that an exemption of this kind would provide an easy defence to prostitutes and brothel-keepers against all rescue applications. They would simply plead that the child to be rescued was married to some one and that her husband was living somewhere; and under the Hon'ble Mr. Malaviya's proposal they would be enabled to plead that the child had been once married. We should then find the Magistrate in every case burdened with a long and probably difficult inquiry as to whether the child had or had not at some time or other had a husband. It is quite easy to say that the cases in which marriages are bogus or merely put forward as a pretext would not be allowed to count. But I put it to the Council if every person anxious to rescue a child has to enter

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upon a long and protracted inquiry as to whether the child had been married or not, or to rebut a false allegation that she had had a husband sometime or somewhere, whether they do not think that any such person would hesitate for a long time before embarking on such a troublesome and expensive process. Furthermore, there may be a child-wife abandoned by her husband who was not willing to take charge of her, but yet, under my Hon'ble friend's suggestion, she would have to be abandoned to her fate. Well, Sir, I do not for a moment suggest that husbands of this infamous description are at all common. If they are very uncommon, then the objection to including wives in the rescue procedure must be very slight. Even in the few cases, if they do occur, then the rescue procedure is as much wanted in their case as in that of unmarried girls. To remove these girls and widows from the category of girls to be rescued under this section would make the law an absolute nullity, and if such an exemption were to be insisted upon, then there would be no other course open to the Government than to abandon this measure altogether.

"The Hon'ble Mr. Vijayaraghavachariar is always rather difficult to argue with, because we find that his opinions are often of a rather fluid character. I think perhaps sometimes in his anxiety and eagerness to put his case, he allows his eloquence to run away with him. One has great difficulty sometimes in following an argument of his, because his arguments are of a somewhat Protean character and very frequently change their shape. Now he seemed to take me to task because I expressed surprise, not at anything that he had said in Select Committee, but I expressed surprise because he had, when the motion to refer the Bill to a Select Committee was made, expressed a desire that the rescue provision should be eliminated. Well, Sir, naturally enough at this stage the only rescue provisions that could possibly be under consideration were the rescue provisions that were in the Bill as it then existed, and it is impossible therefore for him to argue that because he may now be in favour of rescue provisions of some kind that therefore I am mistaken in saying that at the time when the Bill was put forward he objected *in toto* to these rescue provisions. I should like to remind him that, in connection with the difficulties about rescue provisions, he did not then confine his remarks merely to the religious aspect of the case. He indicated to us the difficulties regarding the possibilities of police reports and blackmailing. He wanted us to define girls as falling girls or fallen girls and he said the difficulties in finding husbands for these girls would be impossible. He even threw out the suggestion that we might find homes for fallen boys in order that the fallen boys might marry the fallen girls, and a variety of his suggestions and criticisms were directed not merely against the difficulties of the rescue provisions but against their whole purpose and construction.

"On the only occasion on which I mentioned the Hon'ble Member's name at all in my first speech, my only object was to show that Government had understood that it had the general support of the Council and the country, and therefore that they were rather surprised to find that the Hon'ble Mr. Vijayaraghavachariar was opposed to them on this point. I should just like to quote the Hon'ble Mr. Vijayaraghavachariar's remarks:—

"When I say that these provisions as to rescue should be dropped, I do not mean to vote against the motion. Making allowances for all the defects of commission and omission, there is a substantial modicum of advance in this legislation in the path of social reform, which is entitled to my cordial support. At the same time the third portion of the provisions, namely, the provisions relating to the rescue, are dangerous and even, I should say, illusory and treacherous ground; and even if there were some solid grounds, it would be most inopportune at this crisis to add to the national discontent. Even a single case of a girl handed over from one religion to another would produce a great evil, and the evil would be exaggerated and would cause profound heart-burning throughout the length and breadth of the country.

"For all these reasons' he went on—not only for *this reason*, but for *all these reasons*,—I am entitled to warn the Government on this matter, and I beg and pray that these provisions may be dropped as at once useless and dangerous.

"There are other matters also in which the Hon'ble Member's opinions do seem to me to have fluctuated a good deal. In his speech he accused me of making an apology for *Deva Dasets*. I understood him to reprobate that class very much and to regret that I had omitted them by name from the Bill, be-

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cause he thought that I was in a sort of way making what he called a classic apologia for them.

So under the shelter of the holy temples they maintain, and maintain successfully, schools of attractive vice, and now the Hon'ble the Home Member finds a classic apologia in defence of that system. At all events it would have been best in the interests of morality and in response to the views of social reformers if no allusion had been made to this aspect at all by the Hon'ble the Home Member.

At the end of paragraph 10 of his minute of dissent he now says:—

We must remember that prostitution in certain forms continues to be recognised by large classes of people in this country and social intercourse between them and the rest of the society is common and without reproach. A magistrate, especially if he is not an Indian of experience, is apt to misunderstand and misinterpret the significance and effect of several circumstances arising from this social intercourse. Social intercourse with *Deva Dasis* and *Basavis* of Southern India is a totally different thing from visiting the company of a prostitute in the dark parlours of a Western city.

"Well, Sir, I will only leave it to the Council and ask them where the apologia comes in now: whether I was guilty of an apologia—classic or otherwise, or whether if I was, he has not become a co-sinner in this very matter."

The Hon'ble Mr. Vijiaraghavachariar:—"I wish simply to say No; he is mistaken!"

The Hon'ble the Vice-President.—"Order, order!"

The Hon'ble Sir Reginald Craddock:—"There is one more point in the Hon'ble Pandit Malaviya's speech which I do not feel to have been quite clear; at least, I have not quite understood it. I wish to know whether the Hon'ble Pandit said that in the last resort, in the case of girls whose religion was known—in the last resort, *i.e.*, when there was no other possibility of their rescue,—he did agree to their being handed over to a suitable custodian of another faith without any engagement."

The Hon'ble Pandit Madan Mohan Malaviya:—"My remarks applied to the case of girls whose religion was unknown or could not be ascertained at the time of making the order. I would, in their case, not object to their being made over to the custody of any suitable person without his having given an undertaking that they will not be converted to any particular faith. In the case of girls whose religion was known or could be ascertained at the time of making the order, I adhere to the recommendation of the Select Committee as it has been made."

The Hon'ble Sir Reginald Craddock:—"I am obliged to the Hon'ble Pandit for explaining exactly what he meant. I was not quite certain about it, because he was very careful to emphasise in the Council that under his proposal no girls at all would ever have to go back to a life of shame. Well, I do not think that that can be said to be correct. To begin with, this great and wide exclusion of wives and widows excludes possibly far the largest class altogether; and, secondly, his exclusion of all girls whose religion was known or could be ascertained adds a very large number to the girls excluded from rescue."

The Hon'ble Pandit Madan Mohan Malaviya:—"May I, Sir, with your permission—"

The Hon'ble the Vice-President:—"Order, order! The Hon'ble Member can rise only to a point of order. The Hon'ble the Home Member should be allowed to proceed."

The Hon'ble Sir Reginald Craddock:—"I am not in the least finding fault with the Hon'ble Member. I was merely asking his opinion and it is a fair point of argument. I am not blaming him; he is perfectly sincere in his desire that there should be no scope whatever for proselytising these girls, and I do not wish to quarrel with him on that point. I only wish to make it clear that his claim that these effects will follow is not properly substantiated."

"I notice that the Hon'ble Mr. Surendra Nath Banerjee laid some stress on the point that, even under the Bill as it originally stood, there were cases in which

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no suitable person, either of the same religion or any other—no one at all—would be forthcoming, and that, under the Bill as it stood, there might be some girls who therefore could not be rescued. Well, I do not quite know what he intended to imply from that argument, but I think that what he may have meant to imply was that if, under the Government's own original legislation, there were possible cases in which a child could not be rescued, you could not find fault if, under the stricter religious test which now finds place in the Bill, there might be some others also who could not be rescued—that it is only a question of degree and not of principle. No doubt it would be a most regrettable thing if no one could be found to take a girl, even when no religious restrictions apply; but it seems to me that the difference between the restrictions to which the Hon'ble Member referred and the restrictions which this religious clause involves is simply this: a person is drowning, if there is no one to rescue that person, the person drowns; but if there is some possibility of rescuing that person, then that possibility ought not to be neglected. That is the difference, Sir, between the two cases, of non-rescue for want of any means of rescue and of non-rescue for want of using a particular means of rescue, when that means is available.

"Those, I think, Sir, are the chief points to which any reference now is necessary. I fear I have detained the Council a long time in my reply; but I have been very anxious to show that there was no religious question concerned in this debate, and that what we really considered was what were the possible dangers that might be attributed to the Bill outside, and what practical measures were possible to secure the object that we all have in view. I repeat once more that I welcomed the expressions of opinion given by every member of this Council, whatever shape it took; and I hope that when this Bill goes out once more to the Local Governments and the country, and comes back with their opinions, we may find some satisfactory solution of the difficulties in the way of the great object which we all of us, of whatever religion or creed, have in view."

The motion that the Bill be republished was put and agreed to.

RESOLUTION *RE* RECOMMENDATIONS OF DECENTRALIZATION COMMISSION WITH REGARD TO MUNICIPALITIES.

The Hon'ble Mr. Surendra Nath Banerjee:—"Sir, I have the honour to move the Resolution which stands against my name, namely:—

"That this Council recommends to the Governor General in Council the adoption of the following recommendations of the Decentralization Commission, namely:—

- (a) that subject to the maintenance of prescribed minimum balances, municipalities should have a free hand in respect of their budgets;
- (b) that Municipal Councils should usually elect their own Chairmen;
- (c) that District Boards should contain an elective majority chosen by the non-official members of the Sub-District Boards;
- (d) that village *panchayats* should be formed where local circumstances and experience permit with power to carry out projects regarding village sanitation, village schools and minor village works."

"My Resolution covers a wide surface of our system of local self-government. Ever since the days of Lord Ripon the encouragement of local self-government has been a prominent feature of the administrative policy of the Government of India. In one of his earliest utterances Lord Ripon, whose memory we, the people of India, cherish with affectionate gratitude, declared that he had it in charge from Her Gracious Majesty, the late Queen Victoria, to foster the growth of local self-government in India. This message was followed by the Resolution of the 18th May, 1852, which authoritatively laid down the principles of local self-government, and which we regard as our Magna Charta in that matter. Lord Morley, in his despatch of the 27th November, 1908, endorsed the principles of this Resolution. He regards local self-government as an integral part of his scheme of constitutional reform, which he thinks ought to be

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presented as a whole; and he urges the Government of India to adopt speedy measures for the effectual advancement of local self-government. With your permission, Sir, I will quote an extract from the despatch of the 27th November, 1908. 'It is desirable,' says Lord Morley, 'to present our reformed constitutional system as a whole,' and he adds, 'from this point of view, it is necessary to attempt without delay an effectual advance in the direction of local self-government.' All that my Resolution seeks to bring about is an effectual and speedy advance of local self-government. Sir, I am confident of the sympathy and support of the Government of India in this matter: for His Excellency the Viceroy was pleased to say the other day, the 23rd December last, in reply to an address that was presented to him by the Corporation of Calcutta, that it was the earnest desire of the Government of India to advance the cause of local self-government, wherever possible.

"Sir, the first part of my Resolution recommends that municipalities should be permitted a free hand in framing their budgets, subject to the maintenance of a prescribed minimum balance. This free hand they have not at present. Let me explain, Sir, the law and the practice, as the law and practice are in Bengal, and I presume that the law and practice, having regard to the considerations to which I shall presently refer, cannot in other provinces be materially different. In our province in the month of February, the Commissioners, at a meeting held for the purpose, frame and adopt their budget. The estimates are then forwarded to the magistrate of the district. The magistrate of the district with his remarks sends back the estimates to the Commissioners or forwards them to the Commissioner of the division. The Commissioner of the division either sanctions the estimates or makes his remarks and sends them back to the Commissioners for consideration. Sir, the suggestions of the Commissioner of the division are in the nature of mandatory instructions. The Municipal Commissioners are bound to carry them out. That is the law on the subject. My complaint is that this control of the Commissioner of the division extends to the minutest details of municipal administration. The Municipal Commissioners cannot add a rupee to the pay of a clerk, or even of a peon, without his sanction; and I know of instances where such increments have been disallowed. Sir, the power of the purse is the test of all real power; and where it exists in name or under suzerainty, there can be no sense of responsibility. We have heard a great deal about the apathy of our rate-payers; but how can the rate-payers feel a living interest in their municipal affairs when they see that their representatives are thus treated in the supreme and crucial matter of finance. Our Conferences and our Congresses have again and again called attention to this matter and have addressed the Government to relax the rigours of executive control; but all in vain. It was not until the Decentralization Commission had come to our rescue that the Government of Bengal felt itself called upon to move. On the 20th April, 1910, in the time of Sir Edward Baker, a circular letter was issued over the signature of the Hon'ble Mr. Wheeler, who was then our Financial Secretary, giving a free hand to four municipalities, subject to certain restrictions to which I shall presently refer. These restrictions were that they should maintain a prescribed minimum balance, that they should make adequate provision for the service of loans, and lastly that they should observe the Act and the rules and regulations of the Government. These are perfectly reasonable conditions. The municipalities thus exempted from the rigours of executive control were the four biggest municipalities in the province—with the exception of the Corporation of Calcutta—each having an annual income of over a lakh of rupees. This circular letter indeed went a little beyond the concerns of these municipalities. It laid down the general principles subject to which Commissioners of divisions were to exercise their control. Sir, with your permission, I will read an extract from that circular letter:—

While it is only in the four municipalities specified that the Lieutenant-Governor is at present prepared to dispense with the supervision of the budget now enforced by the District Magistrate and Commissioner, it should be recognised generally with reference to all municipalities that, so far as possible, interference with details should be avoided; the three important points to be scrutinised in connection with the budget are enumerated above. Otherwise, Commissioners, when examining municipal budgets, should endeavour rather to guide the

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municipalities concerned by friendly advice than to control their discretion by explicit direction to take or forbear from particular action; municipalities should be made to recognise that they are primarily responsible for the efficient and economical administration of their finances, and if they misuse the discretion vested in them, they must bear the result of their own mistake.

"Well, Sir, this was a circular letter issued in 1910. I was chairman of a suburban municipality in 1910. I am chairman of the same municipality in 1914. I find no improvement in my position. It is just as good, or just as bad now, as it was then. The control is as minute, as searching, as all embracing now, as it was in 1910. What then is to be the solution? Well, Sir, I venture to submit that all the municipalities in Bengal should be placed upon one and the same footing with these four municipalities, and that the recommendation of the Decentralization Commission in regard to municipalities should in this respect be given effect to.

"If Government should hesitate to take what may appear perhaps to some to be a big jump into the unknown, I venture to suggest a compromise, namely, that the municipalities having an income of Rs. 10,000 a year may be exempted. I think such a measure would be on the lines of Sir Edward Baker's policy, it would be in conformity with the spirit of the recommendations of the Decentralization Commission, and would represent a further advance in the direction of local self-government. Sir, my remarks apply primarily to Bengal, but I venture to submit that the condition of other municipalities in other provinces is very much the same, if not worse. Therefore, these remarks apply equally to municipalities in other parts of India.

"Now, Sir, I come to the second part of my Resolution, namely, that Municipal Councils should elect their own chairmen. I take my stand upon the great Resolution of 18th May, 1882, which says that whatever official control is to be exercised over local bodies should be exercised from without rather than from within. Lord Morley, in the despatch to which I have referred, thoroughly endorses this principle; and, indeed, he goes a step further. He says that the partial non-success of the system of local self-government in India is largely due to a departure from this which he regards as the true and vital principle of local self-government, and he invites the Government of India to affirm the principle and actively shape its policy in accordance with it. I will read an extract from Lord Morley's despatch. He says:—

If Local Self-Government has so far been no marked success as a training ground, it is mainly for the reason that the constitution of the local bodies departed from what was affirmed in the Resolution to be the true principle that the control should be exercised from without rather than from within. The Government should revise and check the acts of local bodies, but not dictate them. I have no doubt that the Government of India to-day will affirm and actively shape their policy upon the principle authoritatively set forth by their predecessors in 1882.

"That, Sir, is what I urged, namely, that the Government should affirm and actively shape their policy in accordance with the principles laid down by their predecessors. Sir, what is the state of things to-day? Here is the true, vital principle of local self-government laid down in the Resolution of the 18th May, 1882, supported by the high authority of Lord Morley. Why not apply that principle to the present situation? In reply to a question which I had the honour of putting yesterday, the Department over which you preside so worthily has kindly placed at my disposal a statement, a most interesting statement, throwing a flood of light upon the development of local self-government. It appears from that statement that there are 526 municipalities in all India. Of these 198 municipalities have chairmen appointed by the Government, that is to say, they do not elect their chairmen. I ask the Council to deduct 111 municipalities in Bengal from this figure, for the reason that I shall refer to the Bengal municipalities later on; for the present I hope the Council will have sufficient confidence in me to permit me to make this deduction. Therefore, we have a balance of 415 municipalities outside Bengal. Of these, 178 municipalities have chairmen appointed by Government, deduct 14 municipalities; because, although they have the right to elect their chairmen, they have not exercised that right: therefore, these municipalities should be deleted. Then we have these figures, out of 415 municipalities outside

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Bengal, 164 have chairmen appointed by Government—a departure from the principles laid down in the Resolution of 1852 and from the despatch of Lord Morley. In other words, Sir, after 30 years of local self-government, we have 39 per cent of the municipalities all over India, except Bengal, whose chairmen are appointed by Government. I think this is a situation which calls for immediate remedy. As far as Bengal is concerned, the situation is better, thanks to the statesmanship of a distinguished member of the Indian Civil Service, Mr. Herbert Reynolds. He is now in England, living in retirement; and the blessings of a grateful people follow him; he was the author of our municipal system. In Bengal, out of 111 municipalities, only 20 have their chairmen appointed by Government. In other words, whereas in the rest of India you have 39 per cent of the municipalities whose chairmen are nominated by Government, in Bengal there are only 18 per cent whose chairmen are appointed by Government. Nor is this all. I want to make a stand for my province and show that in this matter its policy is liberal to a degree, and should be extended to other parts of India. These 20 municipalities are included in the second schedule of the Act—we call it the black list. The Municipal Law in Bengal is so liberal that a municipality may be withdrawn from the schedule, but none can be added to it. Furthermore, when a municipality which has the right to elect its chairman desires to forego that right and abandon its constitutional privilege, it can only do so, not indeed by a bare majority but by the vote of two-thirds of the entire body of Commissioners. It seems to me that there is no occasion for keeping this Schedule at all, when the Government has such ample powers of the control from without, even to the extent of suppressing a municipality. There is, therefore, no necessity for exercising its power from within by appointing a chairman. Sir, if there is to be an advance in this direction in respect of Bengal, *a fortiori* there should be an advance in respect of other parts of India.

"I now come to the third branch of my subject, namely, that district boards should contain an elective majority chosen by the non-official members of the Sub-District Boards. This is a recommendation of the Decentralization Commission. There are 298 District Boards in India, having 5,013 members, of these 2,336 are nominated, in other words, less than half. Thus we have a majority of nominated and not of elected members, contrary to the recommendation of the Decentralization Commission and to Lord Morley's despatch. Lord Morley says (I am not quoting the words, I have them here, I will reproduce them from memory) that non-official members of local boards must be made to feel that they have real powers and real responsibilities to discharge. What I want to ask is how can they feel that they have real powers and have real responsibilities to discharge, when they are in a standing minority in these District Boards, under the presidency of the omnipotent head of the district.

"Now I come to the last branch of my Resolution, namely, that village *panchayats* should be formed where local circumstances and experience permit, with power to carry out projects regarding village sanitation, village schools and minor village works.

"Here again, Sir, I rely upon the authority of Lord Morley, who invites the Government of India to take active measures for the organization of these village unions. He says:—

I desire Your Excellency in Council to consider the best way of carrying out a policy which would make the village the starting point of public life.

"According to the same authority, the village is the fundamental, the indestructible unit of the Indian social system, which has survived the overthrow of dynasties and the fall of empires. Sir, our village organizations carry the mind back to the dawn of human civilization and the early beginning of local self-government. They are dead now, but the instinct is there, deep down in the national consciousness, and under the fostering care of a wise and beneficent Government, such as we now have, it may be revived into a living flame. Our system of local self-government has been built up from the top. That, perhaps, was inevitable under the circumstances. But the time has now come when it should be strengthened from below and the foundations laid well and deep. I cannot help making the

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remark, Sir, that there has been a lack of enthusiasm, both popular and official, in the matter of these village organizations. Why, in India there are only 454 village unions, Madras carries off the palm in this matter with 293 village unions; Bengal comes second—a bad second, I am sorry to say—we have 56 village unions, and the other provinces, Bihar and Orissa, divide the rest. I think, Sir, the law should be revised. The power of these village organizations is limited, their funds are scanty. In Bengal, under the Cattle Trespass Act, they get the proceeds of the pounds supplemented by the doles of the Local Boards. Well, Sir, I have no hesitation in saying that village sanitation will not thrive and primary education must fail of its purpose, if the villagers do not co-operate; for after all the nation dwells in the cottage and no surer basis of national prosperity can be laid than in the association of the residents of our villages in the great task of education and sanitation.

“You, Sir, were pleased to observe the other day that the Government would soon issue a Resolution on local self-government. We desire that the Government should know our views before this Resolution is recorded. I hope and trust the trend of this discussion will place the Government in possession of the sense of the educated community as voiced by their representatives. Sir, the Government has evinced the most lively concern in the advancement of education. Local self-government, rightly understood, is a part of our education. Lord Ripon regarded it as an instrument of popular and political education, and the Government of India have recognised the close interdependence that exists between them by placing the two departments under the control and guidance of the same Minister. Education is the hand-maid of local self-government; local self-government is the ally of education. They strengthen each other and help each other by their mutual interaction. I take it that the Government is most anxious to educate us in Western ideals, and not only in Western ideals, but in those practical activities which have their roots in those ideals. If I am right, I submit that a simultaneous advance in respect of education and local self-government is called for, and the first essential condition is that the leading strings should be relaxed, if not completely done away with; that a larger measure of independence, greater opportunities of initiative and self-reliance, should be accorded to the local bodies. I am sure, Sir, trust will beget trust, kindle a new sense of responsibility and justify the great boon which is associated with the honoured memory of one of the most loved, and one of the most illustrious, of Indian Viceroys. When two such authorities as Lord Morley and the Decentralization Commission call for an advance, I submit that the Government of India cannot stand still. Our goal, that of the Government and the people, is the same; we are journeying both towards the same destined end. If there is any difference of opinion, it is about the pace. We want the Government to quicken its pace, to move faster: a very significant request coming from an Eastern people. The East is indeed slow to move, but when it does move, it moves with all the passionate, but restrained and reasoned, fervour of the Orient.

“With these remarks I beg to move this Resolution.”

The Hon'ble Sir Gangadur Chitnavis:—“Sir, the Resolution deals with four separate recommendations of the Decentralization Commission, all of which may not be practicable to the same extent. I support the principles embodied in the first three recommendations. Whatever the practice which prevails in Bengal, these principles find support in the practice prevailing in the Central Provinces. The provincial Government there have steadily extended to local bodies the privileges recommended by the Commission. Successive Chief Commissioners, the Hon'ble Sir Reginald Craddock among them, have developed local self-government on the lines indicated, with fairly satisfactory results. Most of the reforms advocated, including the power of framing their own budgets, the Central Provinces people have already, and the working has been so far satisfactory. Much remains to be done, it is true; but such important reforms have to be introduced gradually in full recognition of local conditions. Where competent men are forthcoming, the privilege of election should undoubtedly be extended, and larger administrative powers should be given to the local bodies. The recommendations should be the ideals

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to be worked up to as time and circumstances permit. It must not also be forgotten that there are always points of view peculiar to each region and province, which will have very often to be left to the local administrations to consider.

"As regards village *panchayats* we have none now in the Central Provinces. We have caste *panchayats* which interest themselves in social matters. The duties specified in this recommendation at present are within the competence of rural boards. A further decentralization of duties may be advantageous, provided it can be effected at a minimum of cost and without trouble to the rural population. But any village *panchayat* created will have to be placed under official control, for some years to come, to ensure success. The co-operative credit rural societies that have now been and are being formed will, in course of time, popularize the idea of concerted action among villagers. The ground-work will thus be prepared for the formation of village *panchayats* on the lines suggested in the Resolution. All these reforms, it must be remembered, however, cannot be speedily introduced. People must be advanced enough to justify the delegation of powers in their own interests."

The Hon'ble Mr. Cobb :—"Sir, as the provinces to which I have the honour to belong own twice as many large municipalities, excluding the Presidency towns, as any other province in India, and as my own service, which has been devoted entirely to executive duty, has been spent chiefly in those municipalities, I rise to offer a brief explanation of the state of affairs experienced in Agra and Oudh, with reference to the point raised in clause (b) of the Resolution before the Council, namely, the status of municipal chairmen.

"In speaking of the Decentralization Commission as recommending elected chairmen for municipal boards, my Hon'ble friend the Mover has quoted from the summary published with their report and not from the report itself, where, in paragraph 852, their recommendation is more precisely phrased, that the municipal chairman should be an elected non-official. This is the aspect in which the problem has been faced in the United Provinces, and ever since the report was published, some five years ago, Sir John Hewett, and after him Sir James Meston, our present Lieutenant-Governor, have evinced considerable anxiety to give effect to the policy advocated by the Commission. But in spite of good intentions, progress has been comparatively disappointing, especially in the larger municipalities. Nominated official chairmen there must be in places, where party feeling runs high, to hold the balance between opposing factions, but the present unfortunate days of religious animosity we hope will pass away, and in any case such places, I am thankful to say, are not numerous. The real obstacle to progress in the direction recommended by the Commission is to be sought elsewhere. It consists, I have no hesitation in asserting, in the type of chairman we have been aiming at, namely, an active working chairman, personally discharging all the executive functions of the Board and devoting the whole or a large part of his time thereto. Such a type might be all very well, *ceteris paribus*, for an official; but, when we come to look for volunteers to fill the posts, we realise that we are expecting too much. A sufficient number of individuals of honest purpose, with the necessary leisure and the necessary abilities, is not forthcoming. If one is found anywhere, it is the exception, not the rule. Such a crop does not grow on the gooseberry bushes, or whatever the corresponding shrub may be, of any country in the world, and we must clearly adopt a less ambitious and a more practical model for our office of chairman, if we are to have the reasonable prospect everywhere of getting a succession of fit elected non-officials to hold it. The model we need is provided by the Decentralization Commission themselves in paragraph 853 of their Report, where they write :—

'In some largest cities it might be desirable to adopt the method in force in the city of Bombay, namely, to have an elected chairman of the Municipal Council who would be the presiding member and official mouthpiece of the Council as a whole, but to vest the executive administration in a full-time nominated official, subject to the control of the Council and of a standing committee thereof. Such an arrangement would meet the argument that an elected chairman of a large city municipality, who might often be a busy professional man, would not have the time, or the experience, to administer it satisfactorily.'

[Mr. Cobb.]

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"They might, in my humble opinion, have written much more forcibly, but however that may be, I need only say that our Local Government is now adopting the Bombay policy so advocated, and that if in amending our local Municipal Act, which has been on the anvil for some time past, our Provincial Legislative Council will give the Government its support, a sound standard of chairman will be set by the large municipalities and more general fulfilment of the Commission's recommendation in the matter of elected non-official chairmen is likely to result as a natural consequence.

"Sir, before resuming my seat I should like to give expression to the opinion that an omnipotent chairman is wrong not only, as I have tried to demonstrate, in practice, but also in principle. He involves a despotism, where there should be a republic. If he distributes his powers among particular fellow members (a practice not altogether unknown) an oligarchy is constituted, which is an equally objectionable form of tyranny. The only true expression of municipal self-government on democratic lines is the system whereby executive functions are vested in the paid staff to be discharged by them under the corporate control of the Board. This is the system in force in England, where the Mayor or Lord Mayor holds office only for a year. He presides over the Corporation's deliberations and acts formally in their behalf, whilst the administration is carried on by the permanent establishment. The almighty chairman in this country is a legacy from the elementary stages of 50 years ago when in the infancy of municipalities it was inevitable that the district officer should be the moving force and the acting hand, the board being treated in practice rather as a council for his support than a body separately constituted. He has persisted up to the present day because the spread of education and the growth of healthy public opinion has been slow. He was stereotyped in Calcutta and Madras, and their example has recently been followed in Allahabad and Cawnpore, where the chairmen are paid whole-time nominated officials. It is not for me to criticise this arrangement, but the Decentralization Commission has remarked in paragraph 869 of their Report:—

"We concur in preferring the Bombay system of a nominated official Commissioner with an elected Chairman of the Corporation to that of a nominated official Chairman which applies in Calcutta and Madras. The Bombay method, while keeping the executive power in the hands of an experienced official, provides a dignified post as a reward for and an incentive to public spirit and interest in municipal affairs."

"Personally as official Chairman, it was one's constant endeavour to eliminate oneself, to secure the appointment of responsible persons for the posts of Secretary, Health Officer or Engineer; to have authority very largely delegated to them, and to make them accountable to the Board or standing committee concerned as the case might be for its due exercise. One studied to emancipate Boards from leading strings and to promote their corporate activity.

"I think I may fairly claim that the principles for which I have been contending accord with the views of the Decentralization Commission, and in dealing with the question of giving effect to the particular recommendation in their report which forms one of the subjects of this debate, I may hope that the considerations I have ventured to advance will find favour with this Council, and will also commend themselves to the approval and sympathy of every one who has the welfare of municipal institutions in this country at heart and wishes for their success."

The Council adjourned to Thursday, the 19th March, 1914.

W. H. VINCENT,

Secretary to the Government of India,
Legislative Department.

DELHI;

The 27th March, 1914.

APPENDIX.

(Referred to in the Answer to Question 4.)

Statement showing the names of Indian candidates appointed to the Superior Traffic Department of State Railways from 1903 with their educational and other qualifications.

| Year. | Name. | Educational and other qualifications. | REMARKS. |
|-------|--|--|----------|
| 1903 | Pandit Raj Nath . . . | Gained practical experience on North-Western Railway under old rules prior to appointment as Assistant Traffic Superintendent. Son of Rai Pandit Prem Nath Bahadur, Examiner of Accounts, Oudh and Rohilkhand Railway (retired). | |
| 1909 | Syed Ghulam Hussain Shah | Double M.A. of the Punjab University. | |
| 1910 | Lala Mathra Das . . . | Educated up to B.A. standard of the Calcutta University. Son of Rai Bahadur Rala Ram, I.S.O., Engineer-in-Chief, Eastern Bengal Railway. | |
| 1911 | Syed Muslim Ali Bilgrami | 1. Educated in England for some years under eye of his father, Syed Ali Bilgrami, who was Government Director of Railways, Hyderabad, and subsequently a professor at Cambridge. | |
| 1911 | Mr. Sriram Lakshminarasingsa Rao Nayudu. | 2. Student of the senior intermediate class of the Madras University. Son of Dewan Bahadur Sriram Venkataramadasa Nayudu, Acting Secretary to the Board of Revenue (Revenue Settlement), Madras. Application supported by Madras Government. | |
| 1912 | Syed Ali Hamid . . . | 1. B.A. of the Allahabad University. | |
| 1912 | Sheikh Moizuddin . . . | 2. Educated up to B.A. standard. Son of Khan Sahib Khair Din, District Traffic Superintendent, North Western Railway (retired). | |
| 1913 | Lala Shanti Nath Hoon . . . | 1. Educated at Government College, Lahore. Son of Rai Bahadur Bishen Das, Personal Assistant to Agent, North Western Railway. | |
| 1913 | Syed Zahiruddin Shamsie . . . | 2. B.A. of the Allahabad University. Father employed under the Railway Board. | |
| 1913 | Mr. Abdul Aziz Khan . . . | 3. Educated up to B.A. standard at Aligarh. Son of Khan Bahadur Habibur Rahman of the Telegraph Department, a native of Baluchistan, and recommended by Agent, Governor General. | |