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**PROCEEDINGS
OF
*THE INDIAN LEGISLATIVE COUNCIL***

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

VOL. LVIII

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.
(5 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Thursday, the 26th February, 1920.

PRESENT :

The Hon'ble SIR GEORGE LOWNDES, K.C., K.C.S.I., Vice-President, *presiding*,
and 51 Members, of whom 46 were Additional Members.

HINDU MARRIAGES VALIDITY BILL—(contd.)

The Vice-President :—"The Council will now resume the discussion 11-3 A.M.
on Mr. Patel's motion regarding marriages between Hindus of different castes."

The Hon'ble Surendra Nath Banerjee :—"Sir, when I was listening to the speech of my Hon'ble friend the mover, it seemed to me as if I was attending a meeting in the Southern Presidency which was the centre of controversy between Brahmins and non-Brahmins so full of anti-Brahmanical spirit was that speech and so little was there of tolerance or charity in it for those who do not worship with my Hon'ble friend in the same temple. My Hon'ble friend assumes that the majority of his opponents are Brahmins and that the majority of his supporters are non-Brahmins. I should like to know what is his warrant for that assumption, except it be the information within the four corners of the papers which have been sent to us by Government, and which do not profess to be complete or exhaustive? May I remind my Hon'ble friend that throughout our long and chequered history the representatives of the Brahma-ical community have been the intellectual, the social and religious leaders of the people of India, and that even under British rule, despite its equalising and democratic influences they have maintained their position of pre-eminence. In the middle of the nineteenth century India produced the greatest religious leader of his times, he was a Brahmin, Raja Ram Mohan Roy, the founder of the Brahma Somaj; his successor was Maharshi Debendra Nath Tagore, he was also a Brahmin, and the father of Sir Rabindra Nath Tagore, the first of our social reformers was Pandit Iswar Chandra Vidyasagar, who was a Brahmin. The founder of the Arya Samaj movement in the Punjab with which the national life of that province is bound up was Swami Dayanand Saraswati. He too was a Brahmin. Next to Keshub Chandra Sen the greatest religious

[*Mr. Surendra Nath Banerjea.*] [26TH FEBRUARY, 1920.]

reformer of the latter half of the nineteenth century was Ram Krishna Paramhansa, who was a Brahmin and whose religious and philanthropic organisations have now spread all over India.

"It seems to me that my Hon'ble friend, apart from the inaccuracy of his statements, is guilty of a gigantic tactical blunder. It serves no useful purpose to alienate the sympathies of the intellectual leaders of India. Nor can I congratulate my Hon'ble friend on the accuracy of the inferences which he has drawn from information that has been placed at our disposal by the Government. My Hon'ble friend seems to think that the bulk of public opinion is in favour of the Bill and that we are in the majority. I am one of his supporters, but it does no good to disguise facts. We, Sir, are in a minority and we have to educate our people and to convert the minority into a majority. That is the present state of things, and I appeal to a statement furnished by the Government of Bengal in confirmation of this view. Sir, out of five divisions of the Bengal Presidency, three divisions are distinctly opposed to this Bill, two are in favour of it. In a statement furnished by the Government of Bengal, Lord Ronaldshay says that the newspapers, with exceptions here and there, are all against the Bill, that is to say, that the whole of the vocal section of public opinion is against the Bill. I think we ought to acknowledge the fact and to realise that we are in a minority, and that if we wish to take the people with us, we shall have to convert them to our views.

"Sir, passing now to another aspect of the question, we find that the Bill has been challenged on the ground,—and I think these objections have been brought forward by my Hon'ble friend* to my right,—it has been challenged on the ground that it will tend to destroy the sacramental character of Hindu marriages, that it will imperil the caste system and dislocate our social arrangements. I entirely dissent from that view. I contend that it will do nothing of the sort. Inter-caste marriages prevailed in the time of Manu, caste system also subsisted in the time of Manu, inter-caste marriages did not interfere with it in the time of Manu. Are we better Hindus than our ancestors? I do not think so. That sacramental character of our marriages was not destroyed, it was not in any way interfered with, it was not in the slightest measure impaired by these inter-marriages in the time of Manu about a thousand years ago. It is said that by the provisions of the Bill, if we accepted them, the caste system would be imperilled. It was not imperilled at the time of Manu; this caste system existed at that time in spite of these inter-marriages. Then the last argument is that it will disturb our social arrangements. This is a very old argument. It was brought forward in 1856 when the law regarding the re-marriage of widows was considered. That law has been placed on the Statute-book. Our caste systems and our social arrangements have not been injured; Hindu society is now as vigorous as then. I do not think, Sir, that the fabric of Hinduism will in any way suffer by this Bill. On the contrary, it seems to me that it will receive added strength in consequence of this wholesome change. Sir, let me remind the Council of some of the arguments which my Hon'ble friend† behind me put forward in the course of his admirable speech. He opposed the Bill but at the same time admitted that changes were necessary. Well, Sir, let me remind the Council of a great dictum of the founder of conservative philosophy, Edmund Burke. He says that a system without the means of change is without the means of conservation. Here is this venerable fabric hoary with age, consecrated by immemorial traditions, bequeathed to us by our ancestors. Are we going to preserve it, hand it down unimpaired, improved and enlarged to those who will come after us and bear our names? If we desire to do so, we must introduce changes. The venerable fabric cannot stand without such changes. We must take out a beam here, rafter there, take down a wall elsewhere and thus renew this ancient and venerable structure. Sir, adaptability is the law of life, adaptability to environments has been the saving principle of Hindu society amid

* Hon'ble Maharaja of Kashi.†

† Hon'ble Raja Sir Rampal Singh.

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many vicissitudes of time and fortune. Confronted with the militant forces of Buddhism, what did our ancestors do? They bowed to the storm. They borrowed a doctrine here and a doctrine there from the Buddhists, fraternised with them, installed Lord Budha as one of the Gods of Hindu pantheon and crushed Buddhism in their fraternal embrace. That was the procedure of the ancient Hindus. Sir, the world is moving. We cannot stand still. Stationariness is impossible in the law of Providence. We must move and if we do not move forward, we must move backward, and it seems to me that political progress and social stagnation are inconsistent and unthinkable. We talk of political progress. We must have social progress along with it, and it seems to me, Sir, that the Hon'ble Mr. Patel's Bill is a small instalment towards that progress. His Bill is by no means a revolutionary one. What he proposes is that unions which, in the absence of a law such as this, would be unlawful should be legitimatised and that the children of such unions should be declared to be entitled to the inheritance of their parents. Is not this just; Is not this fair; and are not the natural canons of justice superior to all laws, all ordinances and even the injunctions of the Shastras? For, Sir, do they not flow from the footsteps of the throne of the Supreme and are graven deep on the hearts and consciences of humanity? I support the Bill, in the first place, because it is just; I support it because it will not interfere with the solidarity of the Hindu system. I support it further because it is but a small instalment towards that progressive evolution with which the future of our race is bound up, and, on these grounds, I give my support to the Bill. I will ask the Select Committee which is about to be appointed to look into the points which have been referred to by my Hon'ble friend Mr. Sarma. They are of great importance. What are to be the rites that are to be followed in connection with these marriages; what is to be the law of succession that will be followed in this connection? There will be other matters of detail which will have to be considered.

"Then, Sir, I am entirely in favour of the amendment which has been proposed by the Hon'ble the Home Member. This is undoubtedly and essentially a matter for the Hindu community, but, I think, the advice of our Muhammadan and European colleagues would be helpful. Why should we exclude them? Let us hear what they have to say. The decision of the question will be in our own hands.

"Lastly, Sir, we should all look at the matter not merely from the standpoint of social reform. We are here as legislators making laws for the good of a great country. That is the view-point from which we should regard this question, and it seems to me that it would be preferable if this matter were considered and disposed of by a larger and more representative body reflecting in a truer sense the public opinion of the country, speaking with a voice and authority which does not belong to us. I think that would be the proper solution of the question before us. At the same time I desire to accord my whole-hearted support to the principle underlying the Bill."

The Vice-President:—"I had hoped that after the adjournment yesterday the Council would have agreed to bury the Brahmin question; sufficient has already been said on both sides, and the matter is really quite irrelevant. The motion before the Council is whether the Bill should be referred to a Select Committee or not, and I propose to rule in future that all references to the Brahmin question are out of order."

The Hon'ble Mr. Srinivasa Sastri:—"Sir, the Hon'ble Mr. Patel included me yesterday amongst the supporters of his Bill. He was quite right. I have great pleasure in supporting his Bill, and I also support the amendment by the Hon'ble Sir William Vincent to his motion. I support the Bill mostly because I believe in the promotion of freedom to the individual in matters vital to his welfare. I believe, Sir, that the institution of marriage is just the institution in which it is necessary within limits to accord the utmost liberty of action to the individual. The limits necessary are proscribed in every

[*Mr. Srinivasa Sastri.*] [20TH FEBRUARY, 1920.]

community and upheld sometimes by the customary law, sometimes by the statutory law of the land. In the case of India it is the customary law that the Courts enforce in respect of marriage. But it is well known that our ancient Shastras and Scriptures advise one course of action, but that custom in recent times, no doubt extending over several generations, has adopted a somewhat different course. I do not mean to say that every departure from the ancient rule has been wrong. I believe that in every change there has been a conformity to the environment. Every change must have been necessary at the time it was made. But at the present moment there is no doubt that the restrictions imposed by custom far exceed those that the ancient law imposed on the institution of marriage, and that these customary restrictions have begun to enslave the community and restrict the freedom of the individual in a most unwholesome manner. I do not believe really, therefore, that there is any danger to the religion of the land. On the contrary, if I venture to make this statement, it will help to place the religion of the land on a higher and purer footing. Nor do I believe that there is any truth in the charge that has been brought against this Bill that it will disrupt the Hindu society or that it will uproot the institution of caste.

"I believe, Sir, like most proposals for reform, this is likely to be operative on a very small scale in the beginning. If a change comes over the society of this country, it will come over it in a very slow, gradual and natural and safe manner. If, however, there is a possibility of any revolution being effected, which I emphatically deny, it is because the consciousness of the community has begun to revolt against the unwholesome restrictions imposed by custom. Those who foresee these dangers seem to have in their minds an impression that the community at large has begun to feel the stringency of the restrictions and is ready, the moment the law of the land makes it possible, to overstep the barriers and reorganise the institution of marriage on reasonable and healthy lines. If that was the case, I should no doubt rejoice, but I have no reason to think that that is the case. The community is not going to take advantage on a very considerable scale of the provisions of this Bill. I therefore do not apprehend in the least any revolution in society, anything to justify the grave alarm that has found expression both in this Council and outside. One thing, however, may be said. The Hon'ble Mr. Patel and some of his supporters have claimed for the Bill that it may have the effect of demolishing caste. I do not think it will have that effect at all. It may remove some of the acerbities of these caste distinctions; it points the better way to the community; it is a signpost in the march of the community towards a better order, but certainly it will not do much more than that. The Hon'ble Mr. Patel's Bill is brief, attractively brief. He seems to have the idea that if the Bill were confined to a mere declaration of the validity of marriages between castes, it would disarm the opposition of the community; it would show them that the minimum departure from the established practice was contemplated, that it did not try to interfere in any way with the law of succession and inheritance, that it left the ages of the parties where they would otherwise have been, and it left the conditions surrounding a marriage just where they were. I confess, Sir, it seems to me that this is a wrong line to have taken altogether. The very brevity of the Bill is its danger. If the Hon'ble Mr. Patel had taken the advice that has been tendered to him from innumerable quarters and amplified his Bill so as to provide for the many cases of difficulty that arise out of this simple declaration, he would have, it seems to me, diminished considerably the opposition that now finds expression. In this case—more detail, less alarm. I said at the time he asked leave of this Council to introduce this Bill, that I felt the moment that we touch radical institutions like marriage in the light of modern reason, it was necessary to introduce other elements which the enlightened conscience of the modern day connects with the marriage institution. For instance this particular Bill will cause a certain amount of unhappiness, a certain amount of social ostracism to the people who avail themselves of it. It will not do to permit parents so to arrange the marriages of their children that those children, when they grow up, may have to

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face difficulties which they would not themselves have courted. It is absolutely necessary therefore that this reform, which is likely to bring social trouble to those who avail themselves of it, should contain a condition that the parties to any marriage under this Bill should be adults, and should be people that had arrived at the age of discretion. It is necessary too, Sir, in my judgment, that it should provide that the parties to the marriage should be otherwise monogamous; that it should also be clearly made out that while it may be open to people who avail themselves of this Bill to go through the customary rites of marriage before the sacred fire, it nevertheless should be ordained by law that the marriage should have a civil aspect as well; for it is quite likely that a great deal of opposition will be raised to the solemnization of the marriage by the ordinary sacred ritual; and it is possible to contend (I do not believe that it will be correct, but it is possible to contend) that the usual ritual had no application to cases of marriage between a higher and a lower caste. To avoid these difficulties many of Mr. Patel's supporters have advised him to include a provision for registration of marriage. I think it would be well to introduce that element also. I make this recommendation at this moment to the Hon'ble Mr. Patel, because I would respectfully remind him that, while he has numerous supporters on all sides, nearly every one of those supporters has qualified his support by the recommendation that various changes and additions should be made to the Bill, so that it may prove a workable machinery. I may mention Sir Narayan Obandaravkar, the Hon'ble Mr. R. P. Paranjpye, and Mr. Madgaokar, District Judge. Then the Local Governments have done the same. The Hon'ble Mr. Patel yesterday claimed Mr. Percival, District Judge of Poona, amongst his supporters. Sir, at the risk of seeming to disobey a certain rule of yours, I would read one sentence from Mr. Percival's opinion which I commend to the earnest attention of Mr. Patel:—

'In view of the strong opposition, especially among the Brahmin community of Poona and elsewhere, Government will no doubt decide to be conspicuously neutral in respect of the Bill.'

This is for the Hon'ble Mr. Patel:—

'It would also seem desirable to suggest to the Hon'ble Mr. Patel that he would be well advised to travel along the lines of least resistance (as he did in the case of his Educational Bill); that is to say, to confine his Bill to sub-castes, as suggested in paragraph 6 of the report of the Inspecting P. C. Sub-Judge, Poona.'

"Now that does not seem to me to be an opinion which one should have claimed to be entirely in support of the Bill. It is in support of a Bill of much smaller scope than the one before us.

"I conceive then that the Select Committee to which this Bill might be committed in the course of this day's proceedings would have to expand it in various directions and make it a really workable plan, disarming opposition and criticism that has come from all quarters.

"Now, Sir, I want to consider a most important condition imposed by some people on the action of this legislature in respect of matters of social reform. I believe the Hon'ble Sir William Vincent on a former occasion referred briefly, although not on his own individual account, to this condition, that the majority of the community affected by the Bill must be more or less in support of the change indicated before Government could give their sanction to any such measure. Now this condition it is simply impossible, I conceive, to fulfil. I have no desire whatever to enter on any controversy, but I must point out that the Hon'ble Mr. Patel yesterday claimed too much when he claimed that the bulk of the community were in favour of the Bill. Nothing, Sir, is to be gained by exaggerating the support that comes to a measure of this character. The bulk of the Hindu community, both as I read the papers before us and as I know from personal knowledge of feeling all over the country, is decidedly against the Bill. The Hon'ble Mr. Patel pays too much attention to individual opinions, but individual opinions are confessedly individual. Large meetings of the community held up and down the country have protested against the measure, and have memorialised

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the Local Governments. The Local Governments have only made a selection of the papers which are printed here and communicated to us. The large bulk of opinion, most of it adverse, has not been communicated to this Council. The Maharaja of Darbhanga, who presided over a great many of these protest meetings, is referred to both by the Bihar and Orissa Government and the Bengal Government. Now, what did those meetings consist of? They consisted of people of the Hindu community of all castes, Brahmins and non-Brahmins alike. Similarly, meetings, to which the Board of Revenue in Madras refer, consisted also of members of all castes. It seems to me, Sir, that when we set the adverse opinion side by side with the favourable opinion there can be no doubt whatever that the adverse opinion is very much the stronger. That, however, does not seem to me to matter very much in the case of a permissive Bill of this kind. Confessedly, it is for the relief of minorities, and when minorities come and seek relief at the hands of the legislature, it appears to me that the legislature would be imposing a very heavy, almost a prohibitive, obligation if it says 'You go and get the consent of the majority.' The majority are avowedly against a thing of this kind. They do not like sometimes to give the necessary freedom to minorities and to individuals that may be affected. It is a plea on behalf of the minority, on behalf of the individual, that we make to this Council. To claim that the majority are in our favour is to make, it seems to me, a false claim, is to set up, it seems to me, an unnecessary claim. We are a minority; as a minority we come to this Council for relief. But this minority, Sir, is not altogether negligible. It is a considerable minority and the Council need not consider its time and energy wasted if it contemplated a measure that sought to give relief to a considerable minority. I have here a pamphlet, which I daresay other members of this Council also possess copies of, by a certain gentleman named Daphtari, a member of the Bar in Bombay. It is a most instructive pamphlet full of facts and observations which a consideration of this Bill makes necessary. There it is asserted, and I believe it is true, Sir, that there are great numbers of people, numerous castes and sub-castes, in parts of the country, who have been obliged to transgress the limits of the caste distinctions, who have been obliged, in order to find brides and bridegrooms, to overstep the limits set down by custom. Such marriages are now in being, children have been born, and there is a feeling of uneasiness amongst members of these small communities that if ever a case should unfortunately come to a Court of law a decision may be given against them. It is necessary, therefore, for the protection of people who have already taken bold action to pass a Bill of this kind. Now that, Sir, it seems to me, is a significant commentary on the way in which customs are created. The requirement that the custom must be ancient, must be continual and must be uniform is very hard. It militates against the growth of healthy and new customs. I know, as a matter of fact, that in the case of a requirement of the ancient law which is much more binding and goes to the very root of our religion than the one we are considering, in the case, I mean, of the prohibition against marriages as between people of the same Gotra there are communities that have felt that they could not conform to this requirement. I know of a village in the Tinnevely District where a community accepted as orthodox people have, however, owing to the stringency of that condition, been obliged to transgress even this rule and marriages there have been contracted during the last thirty years between people belonging to the same Gotra; and they are Brahmins and Brahmins of a very orthodox sect. I know of other cases where this law against sagotra marriages has been transgressed. It is necessary that cases of this sort should be protected by an enlightened legislature. We must move with the times and as often as people find it necessary to transgress the limits imposed by custom, take that bold action and come to the legislature for relief. I think it will not be wise to withhold that relief merely because three-fourths or seven-eighths of the community have not yet come to ask for the relief.

"Now, Sir, a word as to the attitude of Government in this matter. Now the attitude of Government, it seems to me, is surrounded by a great deal of

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difficulty and the Local Governments have not spoken with one voice in the matter. The disparity between the views of Government is well brought out when we consider the contrast between the views of Sir Reginald Craddock in Burma and the views of Sir Harcourt Butler in the United Provinces. They seem to me to mark the utmost limits of the divergence of views of the Local Governments. Sir Reginald Craddock would advise the Government to prevent the passage of this Bill. Sir Harcourt Butler exhorts the Government to take the side of the reformers, to help the people to live up to a better ideal. He would persuade the Government of India to support the Bill and help it on. Between these two extremes there lie two views. One view is that this Bill had best be considered by the Reformed Council.

"The Governments of Madras, the Punjab and Bombay hold to this view strongly, while the other view that the Government must be strictly neutral and leave this matter to be settled by the Hindu members of this Council, being non-official, is held by the Central Provinces, Bengal, Bihar and Orissa and the United Provinces, the last Government coming also under this in case the other view which I mentioned a minute ago should not commend itself to the Government of India. I find it difficult, Sir, to blame the Government of India in the circumstances that I have stated if they refuse to give official support to this Bill. It seems to me that the Hon'ble Sir William Vincent's amendment, therefore, takes the only course that it is open to the Government of India to take. They must leave this matter to be settled by the non-official members of this Council, and that is why I believe that the amendment is cast on the right lines. I have great pleasure in supporting the Bill and the amendment of the Hon'ble Sir William Vincent."

The Hon'ble Major Malik Sir Umar Hayat Khan:— 11-12 A.M.

"Sir, on behalf of my Muhammadan brethren I rise to say a few words on the amendment, not on the Bill. We have heard very able speakers speaking yesterday and to-day and we have come to know that the matter is very difficult and intricate. Being Muhammadans we know our own law, and we do not know the law of the Hindus so well. There is also another difficulty. Just as Government thinks on this occasion it ought to be neutral, we Muhammadans also have got our own difficulties, and we think we ought to be neutral also at this juncture. One of the causes is that we have seen that the community itself is not unanimous on the matter. It is on this account that we ask that we may be kept out of the Select Committee. This is the general opinion of Muhammadans at the present moment. Of course there are all sorts of opinions, and some of us go further than others. We have got our own religious questions; and as we will always be in a minority here, as well as in the Provincial Councils, when we are trying to better our lot and when we bring in such measures, we may be absolutely hampered; I mean the majority may at any time defeat anything we want to do; that is why we say that when we put our house in order, particularly in our religious questions, we should be allowed to be separate; and we want to be separate therefore now in this matter. That is what I have to say on this amendment. We have had a foretaste during the discussion on the Dacca University measure; it has opened the eyes of most of us in Council as well as outside; and that is one of the causes why we want to ask Government that we should be left alone in this matter; and in future when we have a three-fourths majority on any matter affecting us peculiarly, others should not be allowed to meddle with us; that is why we do not want to meddle with others. With these words I do not support the amendment."

The Hon'ble Sir Gangadhar Chitnavis:— 11-15 A.M.
attitude towards Mr. Basu's Bill was determined by considerations peculiar to that period, but surely some such legislation as now brought in is necessary in the new conditions due to advanced civilisation, in order to legalise mixed marriages. The increasing number of such marriages clearly proves the existence of a genuine desire in the society, as a whole, for a change in the rules

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which have now been unfortunately crystallized by judicial decision. It would be wrong to disregard the growing sentiment and wishes of the people in such a matter. The rules regarding marriage must be relaxed to suit modern conditions of life. It is of course necessary that the Bill should be carefully examined as regards details in view of the other issues involved, as presently instanced by the Hon'ble Mr. Sarma. The language has also to be scrutinised in order to prevent unnecessary litigation. If the Bill is sent to a small Select Committee, mostly of expert lawyers as suggested by Mr. Patel it will, I hope, emerge from it in an acceptable form. It is impossible that it should do so from a large committee, as contemplated by the Hon'ble Sir William Vincent. If the Bill is ultimately passed, the Hon'ble Mr. Patel will have the credit of being looked upon as an apostle of Social Reform, which is gradually but surely taking hold of the public mind."

11-17 A.M.

The Hon'ble Rai Sita Nath Ray Bahadur :—"Sir, I regret I cannot see eye to eye with some of the leaders and reformers who have spoken in support of the Bill. But before going further I want to know whether these reformers are prepared to carry out into practice the principles involved in these Bills? Are they prepared to allow their children to marry outside their caste? If that is not to be, if they would keep aloof from all these things, then where is the necessity of posing as leaders and giving their whole-hearted and sympathetic support to the Bill? I regret I cannot see my way to support the motion of my Hon'ble friend, Mr. Patel.

"As an orthodox Hindu, I consider the caste-system as the foundation of the whole Hindu social edifice; and any violation of that system would undermine the foundation and ultimately demolish the superstructure. As has been pointed out by Mr. Tonkinson that the social and religious systems of the Hindus are so linked together, that it is impossible for a Hindu to marry outside the circle permitted by Hinduism and still remain a Hindu. The principle underlying the Bill is wholly repugnant to Hindu religion and contrary to the time-honoured customs and practices of the Hindus—customs and practices which age has endowed with the sanctity of religious doctrines. The entire social system of the Hindus is bound up and linked together by caste. It has been admitted by an expert of Sir George Birdwood's eminence that the art industries of India owe their very existence to the system of caste which has preserved them from the corrosive wear and tear of time. The skill of the hereditary craftsmen becomes a second nature.

"It has been said that the measure is merely permissive. But as Mahamahopadhyaya Hara Prasad Shastri M.A., O.I.E. has said 'The Hindus do not want these validating Acts and they fervently pray that the benign Government set their face against these Acts and let the people alone in social matters.' Attempts have before now been made by reformers and philanthropists to have such validating measures passed by the legislature, but they have fallen still-born; and the only result has been the creation of suspicion in the minds of the people. The tocsin of alarm has already been sounded and that by no less a person than Raja Peary Mohan Mukerjee, C.S.I., whose age, intellectual acquirements, position and public services entitle his opinion to respect. Says the Raja 'Assurances have been repeatedly given both by Parliamentary Statutes and by the Regulations and Acts of the Indian Government to the peoples of India that in matters regarding succession, inheritance, marriage, caste and all religious usages the personal laws of Hindus will be respected. The proposed measure contemplates an express violation of these assurances. We venture to hope that Government will be pleased not to deviate from the policy which they have hitherto followed in the administration of the affairs of their Hindu subjects.'

"Even people outside the pale of Hinduism have admitted the difficulties to which the measure before the Council is likely to lead. I quote below the opinion of Mr. B. C. Sen, officiating Commissioner, Bhagalpore Division:— 'Though born a Hindu, I am beyond the pale of Hinduism and

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should like to see the whole of the caste system abolished to-morrow. At the same time I am clearly of opinion that the present Bill is premature, and would remain practically inoperative even if passed into law. There can be no doubt that the great mass of Hindu sentiment is strongly against the proposal, and I cannot say that that attitude is altogether unreasonable. In Hinduism, religion, social custom and civil law are so bound up together, that it is impossible to separate them. They are all based on Hindu religious books. So long as the caste system is recognised as an integral part of Hindu religion, and so long as the laws of Hindu marriage and inheritance are based on Hindu Shastras, the present Bill is bound to be looked upon as an attack on the Hindu religion. 'There would also be serious practical difficulties.'

"No case has been made out for the measure, and its necessity has yet to be demonstrated. There is no demand for the proposed legislation from a large section of the Hindu community, who think that it would be unwise on the part of the Government to try to force 'reform' down the throat of an unwilling community which seeks solace in the social system of their forefathers and imbibes inspiration from their holy Shastras.

"I do not desire to weary the Council with long quotations, but I may point out that a large section of the community headed by His Highness the Maharaja of Burdwan and His Highness the Raja of Darbanga have submitted a memorial protesting against the passing of the Bill. Even the High Court of Bengal has offered no observations on the Bill. The Government of Bengal is opposed to the Bill and so are most of the Governments that have been consulted. Most of the Governments have requested that it be referred to the enlarged Council. What is the necessity of rushing the Bill? Why not wait for a year for the enlarged Council to take up the Bill in right earnest? There are several questions that require consideration, there is inheritance, adoption, the status and rights of children, all these intricate questions cannot be dealt with in a single-line Bill of this kind. The proposal is to refer it to Select Committee. I do not see the necessity of doing so. If the Bill is to be referred to Select Committee, and if the Bill is to be amplified, modified, or enlarged, then the opinion of the country should be again sought on the new provisions that it is proposed to incorporate. I, therefore, beg Mr. Patel to drop the Bill for the present and to make necessary provisions in it for solving the different problems that have been raised by Mr. Sarma, and then to bring it to this Council. With these words I beg strongly to oppose the Bill."

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I support 11-58 A.M. this Bill, but before stating my reasons I may say that I am in agreement with the Hon'ble Mr. Sarma that it would have been wiser if Mr. Patel could have made the Bill more comprehensive and if it had made provisions, among other cases, for inheritance for instance. There is some difficulty about this question of inheritance. I should like to point out to the Council that it is a similar case in regard to Act III of 1872 which was referred to yesterday, and which made provision for the marriage of persons before the Registrar. This is called the Civil Marriage Act. It is much longer than the present Bill. It has 20 sections and a Schedule. There is nothing said in that Act about the question of inheritance. It may be a difficult question to decide, and I therefore think it would have been better if provision was made in this Bill in regard to it. But I contend that there is no insuperable difficulty about that matter. Surely this is a question that can be gone into by the Select Committee. I agree that it would be wise to make provision for adoption about age. I think that in a matter of this kind men and women who have attained their majority should be allowed to contract marriages under this Bill. The Act of 1872 does not go so far. It provides that in the case of persons who have not attained their majority, they would have to obtain the consent of their guardians. I think it would be better if we confined the provisions of this Bill to those who have attained their majority. Similarly, I think that there ought to be a provision that marriages under this Bill should be monogamous. No person, man or woman, who has a wife or husband alive at the time should

be permitted to contract a marriage under this Bill. Then there is the question of Divorce and Registration. In this matter I do not think there is any necessity to incorporate any provisions in the Bill. This is a matter that should be considered in Select Committee. With regard to the objections that have been raised by the Hon'ble Rai Sita Nath Ray, I should like to answer him. In the first place, Sir, I think it is recognised by everybody that this is purely a permissive measure. It only enables a Hindu to marry out of his caste; it compels no one to do so. It is absolutely optional; it is purely a permissive measure. It is therefore difficult to understand how a measure like this will be aiming a blow at the Hindu religion or custom. All that it seeks to do is to remove certain of the disabilities in the way of the issues of such marriages, because the issues of such marriages, unless legislative sanction is given to such marriages, will not be legitimate. That is the disability which this Bill seeks to remove. Then, on the other hand, while it enables a Hindu to marry out of his caste, there is no obligation on the part of any other Hindu to have anything to do with such marriages or to deal with the party contracting such marriages socially or hold social communion or association with him. Every one is perfectly entitled to treat the parties contracting such marriages as non-Hindus, to excommunicate them or to outcaste them. I do not see, Sir, how, under these circumstances, it can be said that if you pass this measure it will strike at the root of Hindu religion or custom. If you say that by removing the difficulties which at present exist, you are creating facilities for such marriages, put a premium on such unions and thereby in an indirect manner strike at the root of Hindu religion or custom, my answer is this. It may be so to some extent, but then it is not making an innovation. If there is danger in that way to Hindu religion or custom, it already exists in the existing legislation. Under Act III a Hindu can marry anyone he likes, he can marry not only a Hindu girl, but a non-Hindu girl, a Mussulman or a Jew or a Christian girl if he likes. All that he has to do is to sign a declaration that he is not a Hindu. What does this Bill do? It will enable him only to marry a Hindu girl. But what is wanted is to remove the restriction which you at present impose on him. At present he is bound to declare before contracting such a marriage that he is not a Hindu, but in case he has any conscientious objection to doing so, why penalise his conscience? That is the only difference between this Bill and the existing legislation. I do not think, therefore, you can possibly say that you will be disintegrating the Hindu social fabric by passing this Bill. Whether the policy of Act III, 1872, whether the policy of the suppressing *Sati*, whether the policy about the law about re-marriage of Hindu widows is sound or otherwise, it is too late in the day to discuss this question. But I submit, Sir, if you pass this Bill there will be no such apprehension that you will be doing something grave to jeopardise Hindu religion or custom, and there is strong argument in favour of my contention in the fact that orthodox Hindu States like Indore, Kolhapur and Nepal have a law legalising and re-exposing such marriages. It is a cruel irony of fate, Sir, that while such marriages have validity in Indian Hindu States, British Courts do not recognise such marriages. There is a reported case, Sir, in the Indian Law Reports, 28 All., p. 458. A Brahmin married a Rajput girl in Nepal where such marriages are not prohibited by law. The man died. After his death there was litigation about the property. His son and his widow claimed the property, but the Allahabad High Court held that they had no right to the property because the marriage between the deceased and his wife was not a marriage in law as they did not belong to the same caste. As I said, it is an irony of fate, Sir, that while such marriages are allowed in orthodox Hindu States like Nepal, they are not recognised under the British Government in India. I submit, Sir, there is everything in favour of this measure, and the difficulties which exist and which have been alluded to by my Hon'ble friend, Mr. Sarma, can surely be removed in the Select Committee.

— "There is one other point that I should like to refer to. My Hon'ble friend, Rai Sitanath Ray Bahadur was saying that the Hindu society would come to pieces if this Bill is passed. I ask him if it is not a fact that inter-caste marriages are at the present moment prevalent in East Bengal? Now

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[*Mr. Kamini Kumar Chanda; Rai Sitanath Ray Bahadur; The Vice-President; Mr. G. S. Khaparde.*]

there is a community called the Sahaïs which is a very wealthy, very respectable and influential community in Bengal, but this community has no social equality of status with Brahmins or Kayasthas or Baidyas. None of these castes will take water or food at the hand of Sahaïs

The Hon'ble Rai Sitanath Ray Bahadur:—"They are practically outcasted."

The Vice-President:—"Order, Order."

The Hon'ble Mr. Kamini Kumar Chanda:—"If the Hon'ble Member will wait for a moment I will tell him what it is. There is a practice, there is a custom amongst these wealthy Saha castes of having bridegrooms or brides from poor Kayastha or Baidya families in Eastern Bengal. What happens? The boy or the girl who is thus taken in marriage in a Saha family outcasted is not taken back by his or her parents, but the marriage is valid, the issue of such marriage is legitimate. Has the society come to pieces on account of the existence of this custom? In the last four or five years a number of such marriages have taken place in Calcutta where a Saha has married the daughter of a Kayastha of Calcutta. Now, are these marriages valid or invalid, or has society come to pieces on account of this? I think, I may say, Sir, in passing that it is difficult to say what would happen if the Calcutta High Court took the same view as the Allahabad High Court that Kayasthas are Kshatriyas. Kayasthas according to the Calcutta High Court, in a case reported 10 Calcutta Series, are Sudras and not Kshatriyas, but the opposite view is taken by the Allahabad High Court. If this view obtains in Calcutta, then I do not know, Sir, if the marriages I have spoken of would be valid. I therefore think on all possible grounds there is no reason why this Bill should not be supported by this Council. I say defects there are in it, but they might be easily rectified in the Select Committee. With these few words I beg to support the motion before the Council."

The Hon'ble Mr. G. S. Khaparde:—"Sir, I do not propose to take up much time because the matter is fully discussed. I have only to submit a few considerations which, I think, will help Hon'ble Members to make up their mind and I believe in a manner so as to support this Bill. When it was first introduced at Simla, I stated my views and those were that the Hindu religion being an Imperial religion tolerates nearly everything, and so it matters very little if these gentlemen now come forward and desire some extension of the laws of marriage. At the most it will create another caste, but that will not uproot real Hinduism at all, and what is of great importance, and to which I also attach great importance, is that the Hon'ble Mr. Patel in introducing this Bill yesterday mentioned that he did not attack the caste system. He also said that he wished to maintain the sacramental character of the Hindu marriage. He also said that he does not wish to introduce or engraft a new principle on old Hindu law. Within these three limitations I think the Bill will be very suitable. What the mover seeks to do is to legalise these marriages; he has not even gone so far as to say what the inheritance of the children would be. I myself said in Simla that these matters would have to be provided for, and I qualified my support by saying I would consent to it if these matters, which have been left out now, were brought in, and no matter how, but they must be settled beforehand. If they are not settled there will be a great deal of dispute and probably litigation on the matter. I believe the Select Committee to which the Bill will be referred will be able to deal with these matters, which, after all, I think, are matters of detail, and these matters of detail admit of being discussed and settled and so settled as to be acceptable even to the orthodox community. So there will be no difficulty so far as I can see

[*Mr. G. S. Khaparde ; Sardar Bahadur Sardar Sundar Singh Majithia ; Mr. K. V. Rangaswamy Ayyangar.*] [26TH FEBRUARY, 1920.]

in this Bill being referred to a Committee, and if it is proposed to enlarge that Committee so much the better. The more of us that put our minds to it and use the past experience and wisdom that we have acquired the more will it be to the good, for after all we have to give certain marriages that have taken place between different castes a status. If we let them alone they might go out of society altogether, and I am anxious that they should be kept in society, and it is our duty to make room for them so as to bring them into proper relations with the rest of India, and, if possible, prevent any kind of misunderstanding or quarrelling or disruption on account of these small differences. In that view of the matter I am of opinion that this Bill should be referred to a Select Committee and these details must be settled. Unless these details are settled, probably the Bill will not be acceptable to a large majority of my countrymen. I therefore submit that this Bill should be referred and I do not object to the Select Committee being enlarged by including all the non-official members of this Hon'ble Council."

12-13 P.M.

The Hon'ble Sardar Bahadur Sardar Sundar Singh Majithia:—"Sir, I have been a sort of an interested listener to the debate that has been going on the Bill of my Hon'ble friend Mr. Patel. This somehow or other reminds me of the time when the Anand Marriage Act which I had the honour to pilot through during the last stages of the Council was being discussed and was before the Council. There was some flutter in certain corners of the great Hindu society that that Bill would affect some of the old-established customs. I never thought then that the time would come when the Hindu society, or at any rate certain portions of the great Hindu society, would be bringing forward a measure to legalise certain marriages which were being performed in the community, namely, inter-caste marriages. As a Sikh I welcome the measure because it gives an opportunity of very necessary reform to do away with some of the rigidity of the caste system among the Hindu community. I find on the other hand that a great majority of the orthodox section of the Hindu community is against the motion of my Hon'ble friend, and naturally too, as there are many difficulties which have to be contended with. There are difficulties, as my Hon'ble friend Mr. Sarma pointed out, about the children succeeding to the estate, and about the provisions to be made where there are more than one wife. I personally think, Sir, as the Hon'ble Mr. Sastri said, that something is necessary to be done to give effect to the measure, to improve it in such a way that it should apply to persons who have attained the age of majority, and should not be allowed to apply to persons who are still minors and cannot decide for themselves. I, however, think that the measure has got great possibilities, and there is room for many improvements to be effected in it. In the Select Committee that the Hon'ble Home Member has suggested I think those difficulties could be met, and in giving support to a proposal for reform, as the Bill is evidently intended to be, I hope the Government of India will give their consent to the measure being referred to a Select Committee. With these few remarks I support the motion."

12-16 P.M.

The Hon'ble Mr. K. V. Rangaswamy Ayyangar:—"Sir, I quite endorse what the Hon'ble Mr. Sastri said that Mr. Patel was wrong in saying that the majority of the Hindus are in his favour while the Brahmins alone oppose it. Knowing Mr. Patel as I do I cannot take offence at the strong language and at the loud and emphatic manner in which he put forth his case yesterday and condemned a certain section of his countrymen for being prominent in opposing the Bill. Had Mr. Patel been apprised of the honest and pure intentions of the class of people who oppose the Bill and who are used to voice forth the feelings of the country in all subjects concerning the welfare of the country, and had he been made aware of the spurious and got-up nature of the confederations and leagues on whose authority Mr. Patel relied to base his opinions that Brahmins oppose the Bill while the non-Brahmins support him"

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The Vice-President :—"Order, order, I will not allow the Hon'ble Member to go into the Brahmin question."

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—"Mr. Patel based his arguments on this point that the majority of the non-Brahmins support his Bill and I have to meet them."

The Vice-President :—"The Hon'ble Member must obey my ruling; he must either obey my ruling or resume his seat."

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—"Had Mr. Patel been apprised of the real nature of these institutions then I am sure he would revise his opinion and not attach much importance to the opinions of those associations. My Hon'ble friend, when he represented the Indian views on political aspirations before the Joint Committee in England, had taken a diametrically opposite view of the very same institution which he said yesterday represents the majority of the Hindus"

The Hon'ble Mr. V. J. Patel :—"Which institution ?"

The Hon'ble Mr. K. V. Rangaswamy Ayyangar :—"The very same Madras league which he said yesterday supported his Bill. My friend cannot maintain his position if he should really think that that institution represents the majority of the Hindus. In these days people far away from the scene of activities are led away by reports and misrepresentations, and I may venture to suggest to Mr. Patel to take his co-members into confidence before arriving at any conclusion as to what these institutions are really worth. I am happy that the Council has been enlightened by the Hon'ble Sir William Vincent on the hollowness of the charges brought against the upper classes.

"To come to the point. Mr. Patel through some process of reasoning or other has come to the conclusion that the majority of the Hindus are for his Bill and I would not admit the truth of this assertion. The majority are not for this innovation and the most violent of social reformers would admit the accuracy of my statement. I may even say that the question of majority or minority does not arise at all as the people pressing for this reform form only a microscopic section. The only method of settling this contention of Mr. Patel is to take a referendum on this question. When the new electorates are formed it will be very easy to take a referendum and this subject may be the first to be dealt with in that way. I agree with some one member who urged that this Bill may wait till the new Councils are formed not because that would be a better assembly with more conservative elements than this to discuss this question, but because the voters will be many and a referendum may be easily made.

"The peculiar structure of the Hindu society rests on its social features and on the members of the society having faith and paying willing obedience to the masters who founded it and laid the basic rules for the guidance of that society. I cannot understand why any one should profess to belong to a society not being able to loyally follow the rules of that society. If Mr. Patel should attempt to define the term 'Hindu' correctly, then he would not, I think, force his Bill. It is one thing to find out texts or to interpret the texts of the founders of the society according to our own purposes, but it is quite a different thing to say that this Bill validates marriages, whatsoever be the texts or interpretations of them to the contrary. Let Mr. Patel attempt to found a new society as Buddha or Dayanand had done and I will support him in all rational laws that he may frame for his institution. The common law is that a resident of one geographical unit should be loyal to its temporal authority so long as he remains in it, and he should be naturalised and declared as the subject of any other country before he wishes to transfer his loyalty to it as

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being more comfortable. This principle holds good not only in political but other spheres as well.

"In my speech, when this Bill was introduced, I quoted chapter and verse from Manu to show that he is against inter-caste marriages. There are some texts which show that *Anuloma* marriages were in vogue, but my quotation definitely preventing inter-caste marriages is there; but it has been explained away by the learned Law Member that Manu's Code is a conglomeration of different smritis. The Hindus do not believe that it is so. Manu was a law-giver. If a rare eventuality of an *Anuloma* marriage should be taken into account by him for the purpose of defining the share of inheritance in such cases, it should not be concluded that the text I quoted was borrowed by Manu from some other smritis. I have not the least objection to follow Manu in whatever he has said about the subject and the whole of my contention is to follow him.

"There are so many difficulties about the law relating to succession in *Pratiloma* marriages and the law relating to adoption, as pointed out by Mr. Sarma. One other difficulty struck me and I put it before Mr. Sastri yesterday. The Dwyas or the first three classes select their brides from a gotra different to their own gotras or clans, and Sa-gotra marriages are illegal. Some castes have lost their gotras and how could marriages be allowed between those with defined gotras and with those who have lost the connection and who, if traced, might belong to the same gotra? Members of the same gotra are supposed to be brothers and sisters, and among Hindus it is considered as something like the worst form of incest to wed with one of the same gotra. Mr. Sastri says that law should also be amended to permit Sa-gotra marriages, I cannot treat the subject as lightly as Mr. Sastri does. Even if it is contended that the fourth caste has no gotra then how to solve the present existing custom about marriages being performed in the gotra different from one's own? What is to be the Varna of the progeny?

"I am one of those who think that the Bill is conceived on fundamentally wrong basis and nothing but dropping it would meet the wishes of the majority of the Hindu community. It cannot at all be amended in the Select Committee. As a pandit put it yesterday it is as impossible to straighten a camel's back as to amend the Bill. Further, as one who opposes the principle of the Bill, I am not sure if it is consistent for me to accept membership of the Select Committee which is intended only to improve the Bill."

12-25 P.M.

The Hon'ble Sir Fazulbhoj Currimbhoj:—"Sir, yesterday while moving his amendment, my Hon'ble friend the Home Member made a reference to the Muhammadan members of this Council who represent both Hindus and Muhammadans. Therefore, I wish to make my position clear. As a Mussulman, I would not like to serve on this Committee and discuss this question, firstly, because it is a purely Hindu question, and, secondly, the Hindus themselves are divided on this question, as we have seen in the debate in this Council for the last two days. If we as Mussulmans serve on the Committee, and if we decide to side with the minority, I think it will not be fair to the other part of the Hindu members that we should mix up and discuss this question and decide it with a Muhammadan majority. It will not be in the interests of either Hindus or Muhammadans, when their religious questions are discussed and when they are divided amongst themselves, that we should be the medium of deciding the whole factor.

"Then, again, it is my opinion that this Bill seems not to be complete because, as my friend Mr. Sarma told us yesterday, the question embraces difficult consequential changes of law in regard to succession, inheritance, adoption and perhaps divorce. We have fortunately got eminent Hindu lawyers in the Council who can do justice to this question, and, I think, it would be a fair thing if the Hindus themselves go into the Committee and decide that question. But, in deference to the wishes of my friend the Home Member, I have asked my own Chamber to express their views and I will abide by those views."

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[*Mir Asad Ali, Khan Bahadur; Mr. Sachchidananda Sinha.*]

The Hon'ble Mir Asad Ali, Khan Bahadur:—"Sir, the Hon'ble Mr. Patel's Bill concerns Hindus, and Hindus only, and opinion is divided among Hindus themselves as to the practicability of the measure. Personally speaking, I am in sympathy with the principles of the Bill. For the proposed measure aims at a greater solidarity among my Hindu brethren. With the Hon'ble Mover's optimism on the one hand and with the Hon'ble Mr. Sarma's pessimism on the other, we, Mussalmans, find ourselves in a delicate situation, and feel we are hardly competent to pronounce a sound opinion on the measure. Hence it is both inadvisable and undesirable that Mussalmans should be called upon to sit on the Select Committee. Further, no precedent should be created whereby any piece of social legislation affecting a particular community, especially when it is interwoven with religious customs and usages, may come under the review of the representatives of other communities in the Council, except perhaps when the proposed measure is of such a general character as to concern all the Indian communities. For these reasons I rise to oppose the Hon'ble Home Member's amendment, and if the amendment were carried, I shall have respectfully to decline to serve on the Committee."

The Hon'ble Mr. Sachchidananda Sinha:—"Sir, I rise to give my adherence to the principle of the Hon'ble Mr. Patel's Bill and also to support the amendment of the Hon'ble the Home Member that the Bill be referred to a Select Committee of all the non-official members of this Council. I hope I shall speak loud enough to be heard even by the Hon'ble Rai Sita Nath Ray Bahadur. It has been said that the Hon'ble Mr. Patel's name will go down to posterity as an apostle of reform, if the Bill be enacted; whether it will be so I do not know; but I congratulate Mr. Patel on having brought forward a measure which has had the unique effect of galvanising into very vigilant activity my friend, the Hon'ble Rai Sitanath Ray Bahadur, who since yesterday has been very alert, indeed, to express his opinions on this Bill and who has conveyed that impression to the Council by means of his interruptions and bobbing up and down in his seat a number of times to catch the President's eye. You will pardon my saying, Sir, that it seemed to me you were rather unkind to the Hon'ble Rai Bahadur in not giving him a chance in the first onrush of his enthusiasm, when he might have said even more interesting things than he did to-day, after his ardour had cooled down slightly. Now, I have always thought that there was some justice in the observation that the civilisation and culture of our friends in Bengal was more of a veneer than substantial or real, and the fact that the presidency of Bengal should have, through the mouths of two of its representatives, the Hon'ble the Maharaja of Kasimbazar and the Hon'ble Rai Sitanath Ray Bahadur, opposed the Bill does seem to me to support that view. But I take strong exception to the exaggeration of the Hon'ble Rai Bahadur when he said that in Bengal nobody who is anybody is a supporter of this Bill. When I heard that, I asked myself whether it had come to this that, in this Council anybody from Bengal could say so in the face of my leader, Mr. Surendranath Banerjea. Is he nobody in Bengal? Mr. Banerjea occupies a high position in our public life, not only in Bengal, but throughout the whole of India, and has done so for the last thirty years; and his support, speaking as a Brahmin and as a leader, should surely carry weight with this Council as against the views of the Maharaja of Kasimbazar and the Rai Bahadur. I have known the Hon'ble Rai Sitanath Ray Bahadur to enjoy a high reputation as a financier, but never as a social reformer, nor as a gentleman who could enlighten this Council on such questions. He read out a great deal of quotations for which he apologised. I am sorry that in spite of my sitting so close to him I could not catch all that he said; but the few words which escaped through his mufflers gave me the impression that he was opposed to this Bill on the very old grounds of 'religion in danger,' 'society going to pieces,' and such other things. Now, I think, it is time that such frivolous objections were not placed before this Council, except on very substantial grounds, and I venture to say that he advanced to-day no substantial argument in support

[*Mr. Sachchidananda Sinha; Mr. G. S. Khaparde; The Vice-President; Rai Sita Nath Ray Bahadur.*] [26TH FEBRUARY, 1920.]

of the contention that this Bill should not be referred to a Select Committee. It may be that the Bill is not so comprehensive as it should be; it may be that the Bill leaves various important matters without incorporating them in its text, and I hope that the Select Committee, after careful consideration, will make provision for the matters referred to in the speeches of the Hon'ble Mr. Sarma and the Hon'ble Mr. Sastri. The Hon'ble Rai Sitanath Ray Bahadur went on to say that the Bill was so fundamentally wrong that it should not go before a Select Committee at all. It seems to me, if I may say so without impertinence, to be making a preposterous suggestion to this Council. I do not think I need detain the Council with regard to the observations of the Hon'ble the Maharaja of Kasimbazar. He is a gentleman who is held, not only in Bengal but even outside it, in high regard for his generosity and public benefactions; but he is unfortunately one of those 'birds of evil presage' who think that the whole society is going to pieces when the least change is going to be made in the social customs of the country. That view certainly is absolutely wrong, and I hope in this particular matter we shall be guided, so far as Bengal is concerned, not by the views of the Hon'ble Maharaja or the Hon'ble Rai Bahadur, but by those of so veteran a leader as the Hon'ble Mr. Banerjea. As for my friend, Mr. Ayyanger, he is one of those gentlemen who are home-rulers in matters political but non-home-rulers, I suppose, in all other matters. If it comes to ousting the jurisdiction of the Government and encroaching upon their preserves he is, I am glad to find, the first in the field; but when it comes to making any concession to his own people, some little privilege being conferred on them, he stands up and contends that it is fundamentally wrong, so fundamentally wrong that he would not feel justified even in joining the Select Committee

The Hon'ble Mr. G. S. Khaparde:—"On a point of order, Sir, is it permissible to any Hon'ble Member to make these personal remarks? That is all that I want to say."

The Vice-President:—"The Hon'ble Member, I think, understands the question of non-parliamentary language very well; that being so, I will only say that until now the Hon'ble Mr. Sinha has said nothing 'unparliamentary.'"

The Hon'ble Rai Sita Nath Ray Bahadur:—"We are not here to hear sermons on personal matters."

The Vice-President:—"I greatly regret that I did not hear what the Hon'ble Member said."

The Hon'ble Mr. Sachchidananda Sinha:—"Have I your leave now to go on, Sir?"

The Vice-President:—"Certainly."

The Hon'ble Mr. Sachchidananda Sinha:—"To my mind, Sir, this Bill is a very small instalment of reform which has been long overdue. To begin with, it is a purely enabling and permissive measure; it does not compel anybody to do anything against his wishes. The Hon'ble Rai Sitanath Ray Bahadur thought that he was putting forward a most crushing rejoinder against those in support of this Bill when he said 'Oh! you gentlemen approve of this in theory; but are you prepared to carry it out into practice by marrying your children outside your caste?' I hope I am quoting correctly the substance of what he said. Now, I do not desire to say anything about children, as my only child is two years old, and I do not suppose that even the Rai Bahadur can say that he should be married at the present moment. But, speaking for myself, I am quite willing to marry him outside my caste,

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if the Rai Bahadur will help me in that matter. My marriage was the first inter-caste marriage among the Hindustanee Kayasthas, and I am prepared to go farther with regard to my child. I think there are many people here who are not only mere theorists in this matter, but who are desirous of taking a step in advance by marrying outside their caste. I do not think that, therefore, it is a fair argument to put forward that everybody, who supports the Bill, is a mere theorist and is not willing to carry out his theories into practice.

"Now, Sir, I am the only member, besides perhaps the Hon'ble Sir Zulfiqar Ali Khan, who was in this Council before when Mr. Bhupendranath Basu introduced his Bill. That Bill, as we know, went much further than the present one. I was one of the strongest supporters of that Bill through all its stages. Naturally, therefore, to my mind, this Bill is a very diluted measure, a very meagre one. I wish it had gone much further; but I have always been a most moderate man (I do not yield in moderation to anybody, not even to my leader the Hon'ble Mr. Surendranath Banerjea), and as an exceptionally moderate man, although personally I would go much further than this Bill, I am prepared to support it cordially. I have always believed in acting up to the principle inculcated by Cardinal Newman in his famous hymn—

'Lead, kindly Light, amid the encircling gloom,

Lead Thou me on;

The night is dark, and I am far from home,

Lead Thou me on.

Keep Thou my feet; I do not ask to see,

The distant scene: one step enough for me.'

"I believe that in all matters, whether political or social, one step in advance is a great thing to have; and that is why, although personally I think that this measure is not so advanced as it might have been, I am prepared to vote for it.

"Under your ruling, Sir, I am not to say anything about Brahmins and non-Brahmins and I shall loyally abide by it. I shall only say that in the province which I have the honour to represent here, Bihar and Orissa, there is fortunately no such thing as the Brahmin and the non-Brahmin question; but I am glad to find that in this Council the support given to this Bill is not based on any such consideration as that of Brahmin and non-Brahmin. My friends, Mr. Sarma, Mr. Sastri and Mr. Banerjea, who are all Brahmins, have supported the Bill; whereas the objection curiously has come from the Hon'ble Raja Sir Rampal Singh, the Maharaja of Kasimbazar and the Hon'ble Rai Sitannath Ray Bahadur who are non-Brahmins. I do not think, therefore, that their objection is an important matter to be taken into account. I frankly say that the vast bulk of the community, at present, is against the Bill; and if I give it my support I do so as my own personal view, and I do not say that I represent in this matter the views of the vast bulk of the people in Bihar and Orissa. At the same time, I do not concede that because that is so, I have no right to vote for this Bill being enacted. The Hon'ble Mr. Ayyangar propounded certain views which seemed to me rather curious and untenable. He contended that a man who lived in a certain society or under a certain system of administration, social or political, must subscribe to all its rules and regulations, without making any effort to have them improved or amended, or he should go out of it. That is a proposition which I do not at all accept. On the contrary, I think it is the bounden duty of every human being to try to improve his conditions and surroundings, whether political or social, or moral and to advance further and further to higher ideals. It has been my settled conviction that the reason of the phenomenon that, while all the old Empires, Assyria, Babylonia, Phoenicia, Greece, Rome and others have perished, India has survived catclysms and vicissitudes, and even now after thousands of years is still a vigorous nationality, producing great scientists, orators, legislators, speakers and public men distinguished in all walks of life, is that Indian society has always possessed and displayed most marvellous powers of adaptability.

[Mr. Saohchidananda Sinha; Nawab Saiyed [26TH FEBRUARY, 1920.]
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to environment. It is that which has saved India from extinction, while all the other great Empires of old have decayed and disappeared. We have got even now the country called Greece, but as Byron said. 'It is Greece, but living Greece no more.' So about Rome, and so about other great Empires in the ancient world. It is, therefore, I think, that those gentlemen who stand against some little progress being made are not the best friends of the people, but they are really those who, not knowing it perhaps, do a great harm to the best interests of the country. I should like to refer for a moment to the question raised by my Muhammadan friends as to whether it is right for them to take part in the proceedings of the Select Committee. It was the view of a very high official, Lord Morley, and, I believe, Mr. Asquith also made certain statements at the time the Minto-Morley reforms were under consideration, to the effect that the differences between Hindus and Muhammadans cut so deep and were so radical that it was impossible for them to act together or for the Government to ignore them. Remembering these, I would congratulate the Hon'ble the Home Member on the observations that he made yesterday on this question. He said it may be that there are differences between Hindus and Muhammadans, but after all they have to live together in the same country; they are under the same conditions of life, and they are more likely to know what are the interests, the grievances, and the requirements of each other than an official from England. I hope I have quoted substantially the observations of my Hon'ble friend, with which I entirely agree. Why should not Hindus give their advice on a question affecting Muhammadans or *vice versa*? Some years ago Mr. Jinnah brought in a Wakf Validating Bill. I was one of those who gave it my support. I did not feel justified in refraining from doing so because it was a matter that primarily concerned Muhammadans. This is a question on which, if I may say so without impertinence or disrespect, the Muhammadans are taking what does not seem to me to be a correct view. I gather from what Sir Umar Hyat Khan said that he is afraid that this will create a precedent for putting Hindus on committees considering questions that concern Muhammadans. I am confident that if ever Government put Hindus for considering a measure particularly affecting Muhammadans, the Hindu members would work loyally with the Muhammadans and would not act in any manner detrimental to their interests. For similar reasons we shall most heartily welcome co-operation on the part of our Muhammadan friends, and I am sure we may expect to benefit from their sound advice. With these observations, I strongly support the motion of the Hon'ble Sir William Vincent."

12-46 P.M.

The Hon'ble Nawab Saiyed Nawab Ali Chaudhri :—" Sir, the Hon'ble Sir William Vincent has moved the amendment that all the non-official members of the Council be included in the Select Committee, and has exhorted Mussalman members to join and work in that Committee. This compels me to rise up and explain our attitude with reference to the Bill and the inclusion of the Mussalman members in the Select Committee. I regret to differ from Sir William, but I feel that I have no right to interfere with the religious custom, usage and the law of inheritance of other communities just as I resent being interfered with in mine. It has been admitted even by Mr. Patel that the orthodox section of the Hindu community is against the Bill, while the liberal elements are amongst its enthusiastic supporters. I confess I am no judge of liberalism and orthodoxy in Hindu religion, and I have no desire to thrust my opinion in a controversial question that purely concerns the Hindu community. My Hon'ble friend Raja Sir Rampal Singh has challenged the representative character even of the Hindu members of this Council and has questioned their right to represent the religious Hindu opinion. Whatever may be the justice and propriety of his remark, the Muhammadans, at any rate, have no *locus standi* there. Let orthodoxy and liberalism fight out their battles in the Select Committee where our amateur advice, I feel, will be more of a hindrance than an assistance. 'Do as you would be done by', says a popular adage, and I cannot tolerate the idea of a legislative measure concerning the religious convictions of Mussalmans

[*Nawab Saiyed Nawab Ali Chaudhri; Sir William Vincent.*] [26TH FEBRUARY, 1920.]

being rushed through under the advice and guidance of other communities. But our presence in the Select Committee imposes on us the obligation of acquiescing in the presence of non-Moslim members in committees that shall have to deal with the religious questions of the Mussalmans. This reciprocity of the rights and duties is the first axiom of natural justice, and we cannot insist on any right while we shirk the corresponding duty. Under these circumstances, I regret I am compelled to oppose the inclusion of the Muhammadan members in the Select Committee."

The Hon'ble Sir William Vincent:—"Sir, I should like to advert first to the criticism of Mr. Sastri on the attitude of Government in this matter. As I understood him, he said that the Government insisted that a Bill of this character should be supported by a large majority—I hope I have interpreted him correctly—before it could be accepted. I think he has gone, if I may say so, a little beyond anything that I have said in the course of my tenure of office, although I remember, if my memory serves me correctly, an observation of my predecessor which gives some colour to what he said. What I said when this Bill was introduced was that the Government would be largely guided by the opinions of those primarily affected by the measure in dealing with it at a subsequent stage. That I conceive to be a very reasonable attitude on the part of Government. You, Sir, at a subsequent stage of the debate said 'that the Government will be guided by the opinions they receive and the views they hear is quite certain. But my Hon'ble colleague Sir William Vincent did not say that the fate of the Bill would depend upon the majority of the opinions received. All that my Hon'ble colleague said was that Government would be guided by the opinions they receive'. I think I ought to make the facts clear. Our position in regard to this Bill is one of great difficulty; we are very anxious not to throw out by an official majority what seems to many of us at least to be a liberal and right measure. At the same time, we are anxious not to force upon persons, a majority of whom possibly do not want it, a Bill which affects their social life so closely. I think the Council will admit that that is a difficult position for the Government to be in, and it was for that reason that we seek now to obtain the assistance of non-official members.

"I notice with regret, if I may say so, that many of the Muhammadan members of this Council, whose opinion is entitled to great weight, feel strongly in this matter, and being unwilling to serve on this Select Committee object to the line Government has taken.

"My answer is very short. We cannot in any way insist on their sitting on this committee, nor was it my intention to put any pressure upon them to do so. What I intended was to give those Muhammadan members who desired to do so, particularly those who represented mixed constituencies, an opportunity of sitting on the committee if they thought fit. Further, if the Select Committee had been confined to Hindu Members, it would have meant excluding various members who are not Hindus and yet are not also Muhammadans, but whose opinions would be of great value. I want to make my point quite clear. We do not in any way want to force my Hon'ble friend Nawab Ali Chaudhri, for instance, to act on this committee if he feels that his conscience does not permit him to do so. That is far from our desire, and I am quite sure, far from Mr. Patel's desire too, but we hope that those who think that they can assist in a matter like this can give the committee the benefit of their advice.

"I said a moment ago that this was a liberal measure and for that reason individual members of the Government have great sympathy towards it, and I should like to refer in that connection to what my Hon'ble friend Mr. Banerjee said on the danger of excessive conservatism in Hindu law, and to cite from the letter of the Government of the United Provinces on this point as the argument is of great weight and indicates that this conservatism has been accentuated since the British administration. The Lieutenant-Governor clearly points out how under the strong and stable British Government

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case-made law prevailed, crystallising superannuated customs and preventing new customs from growing. I agree with what he says and think that this is one of the great dangers of the present Government.

"I turn now to the speech of my Hon'ble friend Mr. Sarma, and I must confess to being much impressed by many of the arguments that he put forward. He supported the Bill, but at the same time he put forward practical difficulties which must have appealed to every member of this Council, to minimise which would be idle. He referred, for instance, to the difficulties about inheritance, adoption and legitimacy. Then we had the question raised by my Hon'ble friend Mr. Sastri as to the necessity of registration, and confining this law to monogamous marriages,—and raised the question whether such marriages should only be permissible to those who have attained majority. And while I am speaking of monogamous marriages I am quite sure that the Hon'ble Mr. Patel does not endorse the suggestion made by the Hon'ble Mr. Chanda on this matter. Mr. Chanda apparently had in his mind not a system of polygamy but of polyandry, for, if I understood him correctly, he referred to a suggestion that no man or woman should be allowed to marry outside his or her caste if he or she had a wife or husband living. This was, I think, a mistake of the Hon'ble Member. I cannot think that the Hon'ble Mr. Patel contemplated any legitimatising of polyandry.

"All these are, however, matters of detail which will have to be considered by the Select Committee, and if the committee think it necessary to alter the Bill very much in these respects the question of re-publication and inviting public opinion on the new provisions will have to be considered as was suggested by the Hon'ble Rai Sitanath Ray Bahadur. Many of the questions involved are of great intricacy and complexity. We are, speaking as a Government, in no way anxious to press a measure of this kind on an unwilling people. We are also well aware of the force of the remarks made by the Hon'ble Raja Sir Rampalsingh that whatever people may say or do now, in the end it is the Government which will be made responsible for the measure. If there is any medium excited, Government will have to bear it, and Hon'ble Members who support the Bill in the Council will escape the responsibility which must attach to Government in such a matter. What we want at first is to get the Bill referred to a Select Committee, where it will, I hope, be examined with the greatest care. If the committee think it ought to be re-published, then we are prepared to re-publish it. If they think that material additions are necessary to provide for the difficult questions raised by my Hon'ble friend Mr. Sarma, then we shall pay the greatest attention to the wishes of the Select Committee, but I hope for the present that Hon'ble Members will accept the amendment which I have placed before the Council."

12-57 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"May I rise to make a personal explanation, Sir?"

The Vice-President:—"Certainly, only a personal explanation."

The Hon'ble Mr. Kamini Kumar Chanda:—"I wish to say that I had the following clause in Act III of 1872 in mind when I made the observation:—

'Neither party must at the time of the marriage have a husband or wife living. I thought it is better to provide for a possible contingency on the lines of Act III.'

12-58 P.M.

The Hon'ble Mr. V. J. Patel:—"Sir, I am indeed very much obliged to the Hon'ble Members of this Council. I have no reason to complain. The motion has been received very well by a great majority of my Hindu friends and, I may say, has been sympathetically treated by the Government. I must say that I have been attacked on all sides for other reasons, but I do not mind the attack because the Bill has received support from those who attack me personally. Perhaps it is my own fault. I invited the

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attack, and I got it, and I am not sorry for it. My Hon'ble friend Mr. Banerjea thinks that I made a tactical blunder. And he also stated that I was not right in saying that the great majority of Hindus were in favour of the Bill, but in any case he said that I made a tactical blunder in criticising a certain section of the community. Well, I plead guilty to the charge. Perhaps I did make a tactical blunder; I do make tactical blunders now and again. That is my weak point always. I very often speak bluntly, sometimes feelingly too. But that cannot be helped, that is my temperament. I cannot, however, agree to the proposition of my Hon'ble friend Mr. Banerjea and supported by my Hon'ble friend Mr. Sastri, that the great majority of Hindus are not in favour of the Bill. I am not prepared under any circumstances to take that view. The evidence does not justify it. What are the propositions that I submitted in my opening speech in connection with this motion. I said the great majority, if not the entire Sudra community, the great majority of the Sudra community was in favour of my Bill. The second proposition that I submitted was that a great majority of the non-Brahmins were in favour of my Bill, and the third was that a great majority of Brahmins were against my Bill. These were the three conclusions that I drew from the heap of materials placed before this Council. Now let us analyse each. Is it or is it not true that the majority, and a very great majority, of the Sudra community, is in favour of my Bill? I challenge any member of this Council to prove that the majority of the Sudra community is not in favour of this Bill. Why, the matter of that, out of 20 millions of Hindus in the Presidency of Bengal from which my Hon'ble friend Mr. Banerjea comes, more than half, I think, about 11 millions are Sudras. All of them are in my favour. How can you possibly say then that the majority of the Hindus of the Bengal Presidency are not in my favour, unless you are prepared to say that Sudras are not Hindus, which you dare not. If the Brahmins are prepared to say they do not count Sudras among the Hindus, then I can understand it. Under these circumstances, I do maintain, and I am sure every member of this Council will agree that a very great majority of the Sudra community of this country is in my favour. The second proposition is that the non-Brahmins by a majority are in my favour. I do admit that there is a minority of non-Brahmins against this Bill, but I cannot persuade myself to accept the view which my friends state that the non-Brahmins are by a majority against my Bill. I see no evidence in the heap of papers that have been placed before this Council that the majority of non-Brahmins are against my Bill. We were told by my friends Mr. Sarma and Mr. Rangaswamy Ayyangar that the associations that I referred to and on whose opinions I relied were really not representing the non-Brahmin opinion in Madras. That may be so. I do not know the inner intricacies of the working of these Brahmin and non-Brahmin institutions in Madras. I do not profess to know these things. I bow to the superior knowledge of my friends; but may I ask what associations in Madras represent the Hindu opinion? Does the Mahajan Sabha of Madras represent the Hindu opinion? Well if it does, there is an opinion in the papers here from the Mahajan Sabha, Madras, of which my friend the Hon'ble Mr. Sarma is the President. That Sabha sends an opinion to the Government of India that the Hindus are in favour of my Bill, and that opinion has been signed by my friend the Hon'ble Mr. Sarma. . . .

The Hon'ble Rao Bahadur B. N. Sarma:—"That the Sabha is of that opinion."

The Hon'ble Mr. V. J. Patel:—"The question is whether the Sabha represents Hindu opinion or whether the non-Brahmin Association represents Hindu opinion. Take them together if you like. If those two Associations together do not represent Hindu opinion, what Association in the Madras Presidency really represents the Hindu opinion, may I know from those two gentlemen? Under these circumstances, I am not prepared to accede to the view that the non-Brahmins are by a majority against my Bill. I am still

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strongly of opinion, from the evidence before me, that the non-Brahmin by a majority are in favour of my Bill. So there is the proposition that Sudras are by a majority in my favour and there is this further proposition that non-Brahmins by a majority are in my favour. There then remain only the third and the only other class, namely, the Brahmins, and I agree that the Brahmins by a majority are against me. Is any one prepared to challenge that statement of mine? I shall be glad to be corrected if I am wrong, but I am quite sure they are not prepared to say that the Brahmins are not against my Bill. Perhaps it may be said that the majority of the Brahmins and great minority of non-Brahmins are against, and therefore the great majority of the Hindus are against my Bill. That is not so. I am glad my friend Mr. Sastri referred to a pamphlet by an eminent legal gentleman from Bombay of the name of K. R. Daphtary, in regard to the majority and the minority opposition to my Bill. Mr. Daphtary says:—'

'It is impossible to say that the opposition to Mr. Patel's Bill is in the majority. If you deduct out of the 22 crores of Hindus the untouchables and Sudras there remain only 16 crores. Of these, the Rajputs, the Marathas, and many other castes have allowed intermarriages with other castes, though in individual cases, it may be difficult to prove a custom in the Courts of law. The same may be said of Varnias and Vaishtyas and some Brahmin castes. You have then to take out the Jains, Buddhists, Sikhs, and those religious sects and samajs and institutions, which have seceded from Brahmanism or which have as their object the removal of the present differences and distinctions of caste. A vast majority of the educated people sympathise with the Bill. What remains is an insignificant minority though on account of its present position it may make some noise.'

"Well, Sir, I am not alone in taking the view that only an insignificant minority oppose the Bill. However, as one Hon'ble gentleman pointed out, and very rightly too, it is not a question of majority or minority. The Bill is intended only for those who want to take advantage of it; it is certainly not intended for those who do not want it.

"Now I come to the discussion in this Council by Hon'ble Members on the provisions of the Bill. In the first place, there are those who oppose the very principle of the Bill, on the ground that the whole Hindu religion is in danger. That is an old cry, we know, and I do not propose to reply to that argument as other Hon'ble Members have already answered it, but I must try to answer those Hon'ble gentlemen who point out certain defects in the Bill. Well, I do not claim that my Bill is perfect. I certainly claim simplicity for the Bill. It is as simple as it possibly could be, but I have not claimed perfection for it. The points raised are mainly whether this Bill should not be restricted only to monogamous marriages, and whether it should not be applied only to adults, and whether any provisions regarding inheritance and succession should not be incorporated in it. Well, when I drafted the Bill, I considered all these points, and with regard to the first two I thought it would be much better if I proceeded on the lines of least resistance. As I said in my opening remarks, I do not desire to engraft on the Hindu marriage any new principle not yet recognised by the Hindus. I thought the Bill would be opposed if I attempted to do so. In fact, I am perfectly at one with my Hon'ble friends who put forward these points, but may I point out to them that they go further than I propose, and they must consider whether they will not provoke more opposition from the Hindu community by trying to engraft these new principles on to Hindu marriage.

"My Hon'ble friend Mr. Sastri referred me to the opinion of Mr. P. R. Percival, the District Judge of Poona, for whom I have very great respect. What did he refer me to that opinion for? He referred me to that opinion by way of caution that I should proceed on the lines of least resistance. Well, I am perfectly prepared to do so, but my friend says that this Bill should apply to monogamous marriages only and that the parties to them should be adults. Personally, I have no objection, but is it consistent with his advice to proceed on the lines of least resistance? I am perfectly at one, as I have said, with my friends who criticise my Bill on these grounds, and am quite prepared to incorporate these points in the Bill. In fact that great social reformer, Mr. Natarajan, the Editor of the 'Social Reformer,' had criticised

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[*Mr. V. J. Patel; The Vice-President; Major Malik Sir Umar Hayat Khan.*]

this Bill on these two grounds and I had a talk with him when I told him that, so far as I was concerned, I was perfectly willing to go forward on the lines suggested by him. In fact, I stand out for social equality of all communities. I hate the social domination of one section of the community by any other as much as I hate the political domination of one nation by any other. That is the reason why I have brought this Bill, but, as I said, I want to proceed on the lines of least resistance, and I should certainly like to incorporate these provisions in the Bill if the majority of the Select Committee so desire.

"Then I come to the difficult question of inheritance and succession. I must say"

The Vice-President:—"I would ask the Hon'ble Member not to discuss those questions now. They are purely questions for Committee."

The Hon'ble Mr. V. J. Patel:—"That question also I had considered at the time and thought that the difficulties regarding inheritance and succession were really solved by the Removal of Caste Disabilities Act. I find there are many people who think similarly. Sir P. K. Bose of the Central Provinces is of the same opinion, so is Mr. DeSouza, a District Judge of the Bombay Presidency. They think these difficulties do not arise because of the provisions of the Removal of Caste Disabilities Act. Therefore, I did not think it worth my while to incorporate any such provision, but if the Select Committee think that these difficulties are still there, I am sure they will make the necessary amendments. It is a question more for the lawyers to decide. I do not claim to know much about these legal technicalities, though I do not think that the point made by the Hon'ble Mr. Sarma is so strong that a provision must find a place in the Bill; I am inclined to agree with the other view.

"Then, Sir, the motion that stands in my name is a motion for reference to Select Committee consisting of six non-officials and five officials. The motion of my Hon'ble friend the Home Member is a motion for a Select Committee of all the non-official members. I do not know really what to say"

The Hon'ble Major Malik Sir Umar Hayat Khan:—"Leave out the Muhammadans."

The Hon'ble Mr. V. J. Patel:—"But I do feel that the Government should have decided its attitude in this matter. To my mind the duty of the Government is absolutely clear. We are out for responsible government. When Mr. Basu's Bill was on the anvil the position was quite different. You are committed now to the introduction of responsible government; we all want it. You believe, rightly or wrongly, that these castes and these creeds and these differences of opinion and divisions and all sorts of things are an obstacle to the attainment of responsible government. You never make a secret of your views; you have been saying that times without number. The whole Montagu—Chelmsford Report—the Chapter on Difficulties of the Problem—is full of these things. Now, if you honestly believe that this is one of the obstacles to the attainment of responsible government in India, is it really not your duty to help these of us who want gradually to get rid of these obstacles? As I say the times have changed; we have adopted a different policy. His Majesty's Government has announced that responsible government is the goal and that you are asked to co-operate with us. There is a mandate from His Majesty the King-Emperor. How are you going to co-operate if you do not help us in removing what in your opinion are obstacles? Why do you assume a neutral attitude? Is not such attitude likely to be misconstrued by men like me? This is a question which the Government has got to consider. I would like here to refer to the attitude taken years ago by the

[*Mr. V. J. Patel; The Vice-President.*] [26TH FEBRUARY, 1920.]

Government of India in matters of social legislation. Sir Fitzjames Stephen as Law Members years ago, said—

‘That English education in all its forms leads straight away from all forms of Native orthodoxy, is a proposition which I have never yet heard disputed. How can we sow the seed and refuse to recognise the crop?’

‘Then again, Sir, when the Hindu Widows Marriage Bill was on the anvil, Mr. Grant, afterwards Sir John Peter Grant, in the course of the debate on that Bill said the following words which are applicable with equal force to-day:

‘It was said that this measure would interfere with the Hindu religion and it was also said that this measure, though in outward appearance merely a permissive law, was in point of fact a coercive law.

‘There was no foundation whatever for the first of these objections. The Bill left every Hindu free to act in accordance with his own religious views, but it would be an interference with Hindus in their religious concerns if the Council should refuse to pass this Bill If when 5,000 Hindus came forward and asked to be relieved from the operation of a Municipal Law which prevented their acting in this matter according to their convictions, the Council allowed that Municipal Law to remain in its present state then indeed would it be interfering with the religion of a large body of Hindus; but if it did relieve the petitioners, and all who think with them, from the restriction of the Municipal Law of which they complain he denied that this would be an interference with the religion of any human being.’

‘Sir, there is no question of interference with any religion. I do not ask you to help me in making a law for the equality of all classes of the Hindu community, but I want you to help me in unmaking a law which imposes inequalities. I want you to help me in unmaking the Judge-made law which imposes disabilities. I want you to leave the caste free to deal with such matters. However, as my Hon’ble friend the Home Member has already stated, the matter has not yet finally been decided by the Government and their attitude will be determined later on. At present the Bill goes to the Select Committee. I should very much like that committee I have proposed be appointed, but I know that as my Hon’ble friend has his own motion down my motion stands no chance, I would, therefore, rather accept his than lose both.”

The Vice-President :—“I propose to put the Hon’ble Sir William Vincent’s amendment first. The original motion is that the Bill to provide that marriages between Hindus of different caste are valid be referred to a Select Committee consisting of the Hon’ble Sir George Lowndes, the Hon’ble Sir William Vincent, the Hon’ble Mr. Muddiman, the Hon’ble Dr. Sapru, the Hon’ble Mr. Chanda, the Hon’ble Mr. Sastri, the Hon’ble Mr. Khaparde, the Hon’ble Mr. McPherson, the Hon’ble Mr. Sinha, the Hon’ble Mr. Kincaid and the Hon’ble Mr. Patel.

The amendment moved thereto is that the Bill be referred to a Select Committee consisting of myself and all the non-official members of the Council.”

The amendment was put and agreed to.

The Council adjourned till Monday, the 1st of March at 11 o’clock.

A. P. MUDDIMAN,

*Secretary to the Government of India,
Legislative Department.*

DELHI :

The 8th March, 1920.)