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THE

LEGISLATIVE ASSEMBLY DEBATES

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Volume I, 1930

(20th January to 24th February, 1930)

SIXTH SESSION

OF THE

THIRD LEGISLATIVE ASSEMBLY, 1930

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Legislative Assembly.

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THE HONOURABLE MR V. J. PATEL.

Deputy President :

MAULVI MUHAMMAD YAKUB, M.L.A.

Panel of Chairmen :

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SIR ZULFIQAR ALI KHAN, KT., C.S.I., M.L.A.

Secretary :

MR. S. C. GUPTA, BAR.-AT-LAW.

Assistant of the Secretary :

RAI SAHIB D. DUTT.

Marshal :

CAPTAIN SURAJ SINGH BAHADUR, I.O.M.

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LEGISLATIVE ASSEMBLY.

Thursday, 23rd January, 1930.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

MEMBER SWORN.

Sir Hugh Golding Cocke, Kt., M.L.A. (Bombay: European).

STATEMENT OF BUSINESS.

The Honourable Sir James Orerar (Leader of the House): With your permission, Sir, I desire to make a statement with regard to the probable course of Government business in the week beginning Monday, January the 27th. On Monday it is proposed to move for consideration, and if that motion is accepted, to move to pass, the Bill to amend the Indian Patents and Designs Act, 1911, for certain purposes. Honourable Members will remember that this Bill was referred to a Select Committee of this House and the Report was presented to this House during the Simla Session. On Wednesday, the 29th and Thursday, the 30th, it is proposed to proceed with the Bill to define and amend the law relating to the sale of goods and the Bill to amend section 178 of the Indian Contract Act, 1872. These Bills were referred to a Select Committee of this House in the last Session and that Select Committee sat before the beginning of this Session and the Reports were laid on the first day of the Session. If time allows, both Bills will be passed. In addition, motions will be made to take into consideration and pass the Bill to amend the Transfer of Property (Amendment) Act, 1929, for a certain purpose. This is the small Bill which was introduced by the Honourable the Law Member on the first day of the Session.

THE ARYA MARRIAGE VALIDATION BILL.

Mr. President: The House will now resume further consideration of the following motion moved by Mr. Mukhtar Singh on the 21st January, 1930:

"That the Bill to finally recognize and place beyond doubt the validation of inter-marriage of Arya Samajists, be referred to a Select Committee consisting of the Honourable the Home Member, the Honourable the Law Member, Dr. B. S. Moonje, Mr. Vidya Sagar Pandya, Sardar Gulab Singh, Pandit Thakur Das Bhargava, Rai Sahib Harbilas Sarda, Mr. Fazal Ibrahim Rahimtulla, Mr. N. C. Kelkar, and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Munshi Iswar Saran (Lucknow Division: Non-Muhammadan Rural):

Sir, I rise to give my cordial support to the motion of my Honourable friend Mr. Mukhtar Singh. I must tell the House at the outset that I am not an Arya Samajist and therefore my support of the measure is disinterested. I take it that this Bill is intended to apply to Arya Samajists alone. My Honourable friend Mr. Mukhtar Singh has assured me that he does not wish this Bill to apply to anybody else. It may be that there are defects in the drafting of the Bill, but I submit that these can be rectified in the Select Committee. Now, in order to determine our attitude in regard to this Bill, we have got to put to ourselves two questions. The first question is, do the Arya Samajists want it, and the second is, if they want it, is there anything in the provisions of this Bill which is so open to objection that this House will refuse to give its sanction to it? As regards the first question, Sir, I submit with great confidence that no one will be able to assert that the Arya Samajists as a whole do not want this Bill. There is unanimity of opinion as far as the Arya Samajists are concerned about the urgency and the utility of this Bill. If that be so,—and I submit it is so,—then the second question arises, are the provisions of the Bill open to any serious objection? I submit that it is not for non-Arya Samajists to thrust their own views into this matter. What the Arya Samajists say is this: if the man belongs to the Arya Samaj and if the woman belongs to the Arya Samaj, they should be free to marry irrespective of caste or creed or even nationality. I ask, Sir, can there be any objection to this? A Hindu may have objection to this kind of marriage, but he is not affected by the Bill. It is the Arya Samajist alone who is affected by it, and it is therefore for him to say whether he wants it or not.

I wish also to submit, Sir, that the question of caste, which unfortunately was introduced by some Honourable Members, is wholly irrelevant to the measure before the House. We are not called upon at this moment to pronounce our opinion as regards the utility or otherwise of the caste system. We have got nothing to do with it here. We are to deal with a body of men who are avowedly dissenters, and they come to the Legislature and ask us to give them this relief as they find the present law unsatisfactory, and they want to get rid of it. Now I ask, Sir, what is there in justice or in common sense to advance against this view? My Honourable friend, Mr. Gwynne, on behalf of Government, moved an amendment the other day that this Bill should be circulated for eliciting opinion thereon. I must confess that I do fail to see the necessity for circulation. Whose opinions do they want? Whose opinions will matter in this case? Do they want the opinion of the general body of Hindus or of Muhammadans, or of Christians who are not affected by the Bill at all?

Dr. A. Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Sir, may I invite the Honourable Member's attention to clause 3 where the words are "different castes or sub-castes of Hindus or to different religions"?

Munshi Iswar Saran: My friend is perfectly right. But what I already said was that there might be mistakes in the drafting. Here you have an assurance which my Honourable friend will give that he intends this Bill to apply where both the parties belong to the Arya Samaj, and that

it will not apply where one of the parties belongs to any other faith. I fail to see then how any objection can be raised to this measure by a non-Arya Samajist.

Dr. A. Suhrawardy: We have not forgotten the Hindu Child Marriage Bill which, when it emerged from the Select Committee, was made applicable to the Mussalmans. It is still fresh in our memory.

Pandit Hirday Nath Kunzru (Agra Division: Non-Muhammadan Rural): It was the Deputy President, Maulvi Muhammad Yakub, who suggested that the Child Marriage Bill should apply to everybody.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Certainly not; I repudiate that statement.

Mr. President: Order, order.

Munshi Iswar Saran: Sir, the Child Marriage Bill, some of our friends have got on their brains. In season and out of season they trot it out. What I say is this. Even if you circulate this Bill for eliciting opinions thereon, what guarantee is there that like that monster, the Child Marriage Bill, this Bill might not emerge out of the Select Committee and become another source of distraction and worry to my Honourable friends on those Benches? What they should do is to put up a good fight in the Select Committee and see that the provisions of this Bill do not injuriously affect the interests of Members on those Benches.

Dr. A. Suhrawardy: Who is there on the Select Committee to protect our interests?

Munshi Iswar Saran: Exactly. My Honourable friends forget then that it is up to them to nominate such men as will protect their interests. Quite right. It may be—I do not say so, but it may be—that the personnel of the Select Committee may not be satisfactory. If so, it is up to them to propose such names as will give them satisfaction and will give satisfaction to those whom they represent or profess to represent.

Mr. A. H. Ghuznavi (Dacca Division: Muhammadan Rural): How do we know that the Arya Samajists want it?

Munshi Iswar Saran: That is a reasonable question. After all he has put a reasonable question. (Laughter.) My friend asks how do we know that the Arya Samajists want it.

Mr. A. H. Ghuznavi: As a whole.

Munshi Iswar Saran: We know it. Is my Honourable friend in a position to assert that the Arya Samajists do not want it?

Dr. B. S. Moonje (Nagpur Division: Non-Muhammadan): No one.

Munshi Iswar Saran: My Honourable friend, Dr. Moonje, is much stronger and more emphatic in his statement than I can ever pretend to be. I can only say that I do not know of any organisation of the Arya Samajists which has ever declared against this Bill. I suppose my Honourable friend over there did not do Mr. Mukhtar Singh the honour of listening to his speech when he read out the resolution passed by the Sarwadesi Sabha, to which are affiliated all Arya Samaj institutions in the country. There

[Munshi Iswar Saran.]

would be great force in the position taken by Government if they told us that there was difference of opinion amongst the Arya Samajists themselves. But I throw out the challenge; I ask my Honourable friend to mention one single instance of an organised body of Arya Samajists which has expressed an opinion hostile to this Bill.

Mr. A. H. Ghuznavi: That we can get only by asking for their opinions.

Munshi Iswar Saran: It comes to this then. Notwithstanding the unanimity we find in regard to this measure at the time it has been brought forward in this House and the assurance that is given by every one who is connected with the Arya Samaj or who has any knowledge of the Arya Samaj that there is no difference of opinion as regards this Bill, and the fact—I will not mention the name—that an official member told me in the course of a private conversation that it was true that there was no opposition to this Bill on the part of the Arya Samajists, we are asked to send round this Bill in the hope that some one may come forward and say that this Bill is not wanted.

Mr. A. H. Ghuznavi: May I know what is your reason for not sending it round for eliciting public opinion?

Munshi Iswar Saran: The question is, what is the use of doing so?

Dr. A. Suhrawardy: What is the harm?

Munshi Iswar Saran: Now there is something vague, something imaginary which keeps these gentlemen in a state of perpetual nervousness and makes them grope in the dark in order to find something which may bring comfort to their palpitating hearts. Nothing, I say, Sir, will drive fear out of these Honourable Members whom the Child Marriage Bill has thoroughly demoralised. They will fight shy of every measure of social reform. That is the real trouble, and I hope Government are not as panic-stricken as my Honourable friends over there. I must tell Government here and now that if, in spite of the knowledge they possess that this Bill has the unanimous support of the Arya Samajists, they insist on the circulation of this Bill, they expose themselves to the charge, either of being hostile to social reform or of having the same nervousness as is being displayed by my Honourable friends on that side of the House. I do venture to hope that Government will not like that it should be accused either of hostility to social reform or of undue nervousness. There is a very plain matter before us. The Arya Samajists want this reform. This reform is not open to any objection. Let the Bill be sent to the Select Committee. Let us carefully go into its provisions. I do admit and I do not make a secret of the fact, that there are very serious drafting defects in this Bill. All that can be gone into; all the mistakes can be rectified and when the Bill emerges out of the Select Committee, it will give relief which the whole body of Arya Samajists want and for which they will feel thankful to this House as well as to Government.

Maulvi Mohammad Shafee Daoodi (Tirhut Division: Muhammadan): Sir, I have again to-day, so soon, got a very painful duty to perform and it is to oppose this measure which has been brought by my Honourable friend, Mr. Mukhtar Singh for the validation of the marriages of Arya Samajists. My grounds are these. Although the words used here are that it is a Bill for the validation of marriages of Arya Samajists, still the Bill has got more implications than that. When I read the Statement of

Objects and Reasons, I was quite satisfied that they have got a full right to ask for what they have stated in that Statement. At the risk of taking some of your time, I would read it out because I find that the Statement is something different from the substantive clause which he wants to be made into law. This is what the Statement of Objects and Reasons says:

"As the Arya Samajists, who form quite an appreciable number of the Indian population, conscientiously believe that the present caste system is not in accordance with their scriptures, the Vedas, and as, according to the law as administered at present, marriages among couples belonging to different castes or sub-castes are considered invalid and there is a fear of the issue of such marriages being declared illegitimate, and as quite a large number of such marriages have taken place and more would have taken place had there been no such obstacles, it is necessary to have a law which would give relief to the Arya Samajists. Hence the above short law is proposed."

I admit, Sir, the justification of the claim made here, that is to say, that no marriage of an Arya Samajist shall be invalid by reason of the couple having belonged to different castes or sub-castes of Hindus. But when I read, Sir, the substantive clause, it goes much further than that. The third clause of the Bill runs thus:

"No marriage of an Arya Samajist shall be invalid by reason of the couple having belonged to different castes or sub-castes of Hindus"

So far all right because this deals with what the Mover states in the Statement of Objects and Reasons, but here, I do not know whether by mistake or intentionally, the words are added "or to different religions". I do not understand whence these words come, because there is nothing whatsoever to justify a claim of this sort in the Statement of Objects and Reasons. As you know, Sir, Moslems are not very politically conscious; they do not think that the Assembly is a place where their *shariat* can be invaded in a manner which may not be known to them at all unless it is given effect to. When my friends find that the Moslems are so backward in grasping the present situation, they should not have put in those words without mentioning something in the Statement of Objects and Reasons, so that our attention might have been drawn to it. Now, Sir, what I take objection to is this, that the Mover can not have those general words "different religions". He should at once make it plain that the marriage of a Moslem wife with a non-Moslem husband shall not be recognised. If he makes that amendment, if he excludes the Moslem women, I have got no objection to the Bill. They can have anything they like, but they cannot touch, Sir, the personal law of the Moslems. I am not claiming it, Sir, dogmatically. You know that the Moslems, so long as they are Moslems, cannot forget the clear injunctions of the Koran. I will read to you, Sir, the relevant passage from the Koran here. It is in Chapter II, verse. 222, Rukn. 27.

"Do not marry the *mushrik* woman until they believe, and certainly a believing maid is better than a *mushrik* woman, even though she should please you; and do not give (believing women) in marriage to *mushriks* until they believe, and certainly a believing servant is better than a *mushrik* even though he should please you"

This is a clear injunction of the Koran, and there is no question of any interpretation. The aforesaid words, stated in Clause 3 of the Bill, Sir, are entirely opposed to the meaning in the verse of the Koran I have quoted, and therefore I strongly oppose these words in the clause of the Bill. If the Bill is going to Select Committee, Sir, I should say we should oppose it tooth and nail, otherwise it would mean that we have accepted the principles underlying the Bill. But if the Bill goes for circulation and for eliciting opinions, certainly every one will have a right to say what he thinks on the subject.

Pandit Hirday Nath Kunru: Sir, on a previous occasion when a measure relating to social reform was discussed in this House, the opponents of the Bill asked us to show that the law which was to be put into force would not be in advance of public opinion and that it would be capable of being enforced by the Government.

Mr. A. H. Ghuznavi: What is that social reform Legislation you are referring to?

Pandit Hirday Nath Kunru: The Child Marriage Restraint Act. It cannot be said, however, in the case of the present Bill that it is in advance of public opinion. It only seeks to legalise a practice that has grown up without the sanction of the law. Arya Samajists, who believe that there ought to be no castes, have taken upon themselves the risk of following their convictions, even though they may not have the sanction of the law behind them. What are you going to do in this case then? Are you going to say to these intrepid people who are prepared to suffer for their religion and their conscience that the law would step in and protect their rights, or will you leave their position as uncertain as it is to-day simply because certain people who are not Arya Samajists might put forward some objections to this Bill? I think, Sir, that as the Bill relates to Arya Samajists, and as Arya Samajists have in no uncertain terms declared themselves ready to support this measure, it is the bounden duty of the Government to see that it is passed.

Mr. A. H. Ghuznavi: What do you say to clause 3?

Pandit Hirday Nath Kunru: If my Honourable friend will have a little patience, he will find that his point will be answered. It was asked when my Honourable friend Munshi Iswar Saran was speaking, what was there to show that the Arya Samajists were behind this Bill. Perhaps it will be news to some of my friends that the great gathering which assembled in Muttra two or three years back to celebrate the centenary of the birth of the founder of the Arya Samaj, Swami Dayanand, discussed a resolution in favour of a law validating marriages between Arya Samajists, even though they might belong to different castes or religions; and as my Honourable friend Rai Sahib Harbilas Sarda knows, this resolution was passed unanimously. It is not open to anybody, therefore, to doubt that a law like this is desired by the Arya Samajists. Even during the last few days, the newspapers have reported the proceedings of many Arya Samaj Associations in the United Provinces and the Punjab giving their whole-hearted support to the motion brought forward by Chaudhuri Mukhtar Singh.

There is, however, another objection which has been brought forward against the Bill by my Moslem friends on the score of the language of clause 3 of the Bill. If they will read the clause carefully, they will find that it refers not merely to different religions but also to different castes and sub-castes. Now, a man, when he becomes an Arya Samajist, renounces his old caste. It is obvious therefore that this law is not meant to legalise marriages between people belonging to different religions and castes and sub-castes, but only to legalise such marriages between people who, whatever their caste or religion might have been originally, have allowed themselves to be converted to the Arya Samajist faith. The drafting of the clause might be bad; this shows that there is a clear case for sending it to a Select Committee, but there is absolutely no warrant for the statement that this Bill intends to legalise marriages between people of different faiths. That, as

we know, is governed by a different law altogether. It was not necessary for Chaudhuri Mukhtar Singh to deal with a matter that has already been settled. It may be said, however, that this Bill will give an impetus to conversions. This will be a most far-fetched argument. Propaganda in favour of conversion is being carried on briskly by both Hindus and Muslims. This Bill will make no change in that practice, nor will it encourage conversions on either side. All that it seeks to do is that when men, whatever their faith may have been originally, have become Arya Samajists, their position within the pale of Arya Samajists should no longer be in doubt. This point is of considerable importance. In the case of those who were Hindus before they entered the fold of the Arya Samaj, it may be said that their rights would be governed by the Hindu law. But surely that cannot be said of people who have been converted from Christianity or Islam. Such conversions do take place. Now, what is the status of these converted people? They are outside the pale of the caste system. The Hindu law does not apply to them; then what is their legal position in regard either to property or to marriages?

I submit, Sir, that a very clear case has been made out for the further and immediate consideration of this Bill. There are drafting defects to be remedied. It might be necessary to put in certain safeguards which my friend, Chaudhuri Mukhtar Singh has failed to take into account; but I see no reason whatever for the circulation of this Bill for eliciting public opinion because the opinions of the people who matter, the people who are affected by this Bill, are already known both to Government and to the public.

The Honourable Sir James Orerar (Home Member): Sir, I desire to say only a very few words with regard in particular to what has fallen from Munshi Iswar Saran and Pandit Kunzru. I should like to emphasise, in the first place that, if this House agrees to a motion for circulation, it in no way expresses any disapproval of the principle of the Bill; nor does it imply any comment upon the views taken by its promoters. It is a motion which can be passed without any prejudice whatsoever to the principle of the Bill.

Now, if I understood my Honourable friends correctly, the two principal points which they took were these: firstly, that here was a measure which solely concerned a particular community and which has had the unanimous approval of that community; and the second point, I think, was this, that if any difficulties arise with regard to the Bill, they are of a character which can easily be remedied in Select Committee. I confess, though I see a great deal of force in many of the contentions advanced by these two Honourable gentlemen, that I am not quite convinced on either of these two points. I have no doubt whatever that the intention of the Mover of this Bill is to promote a measure which he considers has a very strong amount of support in his community. Nor am I at all disposed or concerned to question the fact that the Honourable Member has arrived at that conclusion on grounds which present themselves to him as very convincing. But I do suggest as a matter for caution that the views of a public meeting held a year or two ago are not absolutely conclusive as to the complete unanimity of a community which has branches throughout the whole of India; and I think that the House would desire to have a fuller assurance on that point, which can be more satisfactorily obtained by means of a motion for circulation.

[Sir James Crerar.]

Then I pass on to the second point, namely, that the sole difficulties which could possibly arise with regard to this Bill are such as can easily be removed in Select Committee. Now, Sir, that point does not appear to me to be satisfactorily established. The Statement of Objects and Reasons is decidedly obscure on that point; and certainly the actual terms of the Bill give ground for supposing that, if this House assented to the principle of the Bill, with the interpretation to be extracted from the Statement of Objects and Reasons and its plain and clear provisions, it might incautiously be committing itself to a principle which goes very much further and may have much wider consequences than we in the present state of affairs are fully able to appreciate. I would therefore emphasize once more that, in asking this House to agree to a motion for circulation, we are asking to place itself in a position to deal with more confidence with the measure at a later stage; and I would reiterate that it involves in no sense any attitude of hostility or of disapproval to the objects of a measure which its promoters may intend to be restricted solely to the concerns and interests of one particular community, and to have the unanimous or practically unanimous support of that community. I trust that, in view of the explanation which I have offered, the suggestion that Government is unfavourably disposed either towards general projects of social reform or to this particular project will be removed.

Pandit Hirday Nath Kunzru: Will Government give an undertaking that the opinions will be received before the next Session of the Assembly and that a day will be given for the discussion of the Bill?

The Honourable Sir James Crerar: I am afraid I could not give an assurance on that point.

***Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I support the motion that the Bill be circulated for opinion. I think the measure as it stands is a very important measure and it requires much more consideration before one can reasonably extend his support to it. In the first place, it has not been fully realised that the Arya Samaj is at present only a portion of the Hindu community. The Arya Samaj is not an entirely separate body from the Hindu community. The members of the Arya Samaj have lived and moved, married and prospered as members of the Hindu community. I have no objection,—no reasonable man will have any objection—to any set of men who are compact and well knit among themselves deciding to follow a certain course of action. Arya Samajists who declare themselves as Arya Samajists and who belong to this school of thought are perfectly entitled to ask that the Legislature should help them to regularise marriages which they perform among themselves for the benefit of those who belong to that body. But at present the Arya Samaj is not such a separate entity in Hindu society, and the measure, as it has been drafted, has not taken full note of that fact. For instance, as you will see, the provisions of the Bill are not confined to any adult man or woman who declares himself or herself to be a member of the Arya Samaj; but it says:

“Arya Samajist” shall mean a person who is a member of any Arya Samaj, or is a member of the family of, or a relative dependent on, or a person under the guardianship of, any person mentioned in clause (a).”

*Speech not revised by the Honourable Member.

Now, Sir, that at once introduces a very large question whether a man is entitled not only to change his own social and socio-religious ideas, but also impose those ideas upon those who happen to be members of his family or to be dependents on him, or to have been under his guardianship. This is a very extensive measure and requires very careful consideration. Secondly, Sir

Nawab Sir Sahibzada Abdul Qaiyum (North-West Frontier Province: Nominated Non-official): Just stay in an Ashram for a few days.

Pandit Madan Mohan Malaviya: Secondly, Sir, it has not been sufficiently considered that this affects the question of succession. Succession is governed by marriage. According to the Hindu law, as it stands, succession goes in a certain way. When this Bill is passed, if it is passed, the Arya Samajists will be free to marry by deviating from the custom that prevails now. They may be perfectly free to do so and they may not be hampered in doing so, but then the question will arise about succession. They are related to Hindus, who follow a different code of laws so far as succession is concerned, and the Arya Samajists follow that code of laws at present. It is necessary that, if this measure is to be passed, the question of how succession shall be regulated should be considered, because at present an Arya Samajist is free to change his faith or to adopt what he might consider to be a more liberal interpretation of the faith which he believes in; but he is certainly not entitled to say that those who are related to him by birth shall be compelled to adopt his view on account of his having changed his faith, and therefore the question of succession to property should be carefully considered in connection with this measure. I, therefore, think that it is only fair that the Bill should be circulated. I know that Arya Samaj gatherings have supported this Bill, but I wonder if the implications of this Bill have been fully considered, and I think that my Arya Samaj friends will be wise in considering these important points in all their different aspects before asking that this Bill should be taken up for consideration in this House. The circulation of the Bill will afford that opportunity to them as well as to others who are interested in this matter.

***Pandit Thakur Das Bhargava** (Ambala Division: Non-Muhammadan): Sir, I am rather surprised at the speech which Pandit Malaviyajee has just delivered in this House regarding some questions which have come up for discussion on this Bill. So far as the question of succession is concerned, we know, even at present, the Arya Samajists have never raised any objection on that score. It is true that they are Hindus, and the fact that they form the vanguard of Hindus does not take away their character of being Hindus. The only questions raised in this Bill are those of legitimacy and marriage and, as a lawyer, I know that it is the business of the State and it is the special concern of the Legislature to see that marriage and legitimacy are recognised. This Bill only claims that the legitimacy of those persons which is in doubt, or the marriage of whom may be in doubt, may be finally declared to be valid. This Bill has nothing to do with succession and other matters.

The other objection which has been raised, so far as this Bill is concerned, is that the Government or some Honourable Members are still not satisfied that the Arya Samajists want such a measure. Fortunately or unfortunately I am also not a member of the Arya Samaj, but I can

*Speech not revised by the Honourable Member.

[Pandit Thakur Das Bhargava.]

assure this House that the Arya Samajists are unanimous in demanding this Bill. This Bill does not impose any duty upon every Arya Samajist to marry in a different sect or sub-caste or in a different caste. It is only a permissive measure. Such of these who marry a husband or wife of a different caste or sub-caste want that their marriage may be declared valid and their issue declared legitimate. Now, the Resolution of the Sarva-deshik Sabha is conclusive on this point. The House will be interested to know that about 30 or 40 Arya Samajists have sent telegrams to Mr. Mukhtar Singh, and those telegrams have appeared in the public Press. The local Arya Samaj at Hissar, from which place I come, has also sent me a Resolution stating that I should support this Bill in the Assembly.

Now, Sir, everybody who is conversant with the state of things prevailing in Hindu society is sure to know, not to speak of Arya Samajists, that in the advanced sections of the Hindu community such marriages do take place. In the small community to which I belong, there have taken place some marriages between Bhargavas and non-Bhargavas, and the community as a whole is not now looking down upon such connections. Where is the community in the whole of India to-day among whom such inter-caste marriages have not taken place? In fact, such a measure, if it applied to the advanced section of Hindus, would not be out of place. Arya Samaj, as I have already submitted, represents the vanguard of Hindus, and therefore, if this measure is once adopted by the Arya Samajists, I have no doubt in my mind that, after some time, we shall want a measure for the Hindus on these very lines. I know that at present, under the Civil Marriage law, marriages between Hindus and non-Hindus are valid, but then their succession, the rights of adoption, etc. are governed by the Indian Succession Act. This is exactly the thing which is sought to be eliminated by a measure of this character. If a man wants to remain a Hindu, if he wants to remain an Arya Samajist, he clings to his succession law and to his adoption law, whereas if a man marries in some other way, then his law of succession and adoption is changed.

Now, Sir, it has been doubted by some that this Bill applies to persons who are not Arya Samajists, but I may tell them that this interpretation is wrong. To start with, the Bill says:

“Whereas it is expedient to finally recognise and place beyond doubt the validation of intermarriage of Arya Samajists”, etc.

Now, “inter-marriage of”, if it denotes anything at all, denotes that both the parties to the marriage would be Arya Samajists.

Now, Sir, objection has been taken to some words in clause 3 of the Bill; objection has been taken to the words “to different religions” appearing in clause 3 of the Bill, but that objection ignores the preceding words which read, “by reason of the couple having belonged to different castes or sub-castes of Hindus, or to different religions”. Previous to the marriage, it is clear that they may have belonged to different religions. If a Jain, or a Sikh, or a Christian or a Muhammadan has been converted to Hinduism and has become an Arya Samajist, he belonged to a different religion once, but at the time of marriage he belongs to no religion, he belongs to no caste, except that of the Arya Samaj. Therefore, according to this interpretation, the fact that a person once belonged to a different religion does not in any way stand in the way of his marriage with a

member of the Arya Samaj. I think, Sir, the Mover of this Bill has made it absolutely clear that this Bill is limited to those persons who have faith in the Arya Samaj doctrines, and if these words are doubtful, they can certainly be amended in the Select Committee in such a way that they do not import anything which the Mover does not want to import into the Bill.

The only effect of this dilatory motion will be that this Bill will not be passed into law either in this or in the next session of the Assembly. If the Government gave an undertaking that in the next session this Bill would be passed into law, or that sufficient time would be given for the discussion of this Bill, as it did in the case of the Child Marriage Restraint Act, I think the Mover of the Bill would readily accept the suggestion for circulation also. I think, Sir, that in a Bill of this kind the circulation ought not to be very extensive. The Legislature should seek to find out the opinions of those whom this Bill affects. The opinions of those who are not affected by this Bill are really irrelevant. The dominant voice should be of those who may be affected by this Bill, and even if there are Arya Samajists who do not like this Bill, even then I would submit that the opinions of such Arya Samajists as are orthodox and who do not favour or allow any marriages to take place between different sub-castes and castes would be irrelevant. The question is whether this Legislature is going to afford a measure of protection to those who believe in the validity of marriages between those who belong to different castes. As there may be doubts regarding the legitimacy of such marriages, I think it is the duty of this Legislature to afford protection to such people as believe in such marriages. We must see which way the wind blows. Times are changing. The entire opinion about marriages and about castes is changing and it is but fair that those who do not believe in antiquated doctrines should have the protection of law in regard to such delicate matters such as legitimacy and marriage.

Now, Sir, an objection has been taken that this Bill is rather too wide in so far as it includes persons who are relatives dependent on or under the guardianship of any person mentioned in clause (a). Now, I take it, Sir, that under every law and under the law of the land, a minor child, male or female, is generally taken to have the same religion as the parent. What is wrong with this principle of law that a relative dependent on or under the guardianship of any person mentioned in clause (a) should be regarded as an Arya Samajist? Are we to understand that an Arya Samajist, because he is an Arya Samajist, ceases to be the guardian of his minor son or minor daughter? I think the definition is not too large. It may be said that the words "member of the family" may include persons who are not members of the Arya Samaj. I can understand that criticism, but then it is a small matter. The Bill will be sent to the Select Committee and this part of the case can be considered there.

Mr. B. Das (Orissa Division: Non-Muhammadan): Do you want a Brahmin to marry a non-brahmin.

Pandit Thakur Das Bhargava: I do want that a Brahmin should marry a non-Brahmin. According to the tenets of the Hindu religion, even today, a marriage is perfectly valid between a Brahmin husband and a woman who belongs to any of the castes other than the Brahmin caste. My friend Mr. B. Das should go to a law class and take his lessons there.

[Pandit Thakur Das Bhargava.]

As regards those cases where a woman of a higher caste marries a husband of a lower caste, the Hindu law may be doubtful, but the Hindu law is absolutely clear on the point that the husband of a higher caste can certainly marry a woman of a lower caste. But leaving that aside, any person who knows the present state of affairs in the society knows full well that, even to-day, the offspring of such marriages between different sub-castes and between different castes among the Hindus are regarded as legitimate by society, and the offspring of such marriages are also married in the same *baradari* or in a different *baradari*. This Bill does not say that such marriages or unions are invalid. Their validity is only doubtful. I do not know of any cases which have gone to the courts.

Mr. B. Das: Then why do you want this Bill?

Pandit Thakur Das Bhargava: The question why we want this Bill is one which, I am surprised, my friend Mr. B. Das has raised. The Statement of Objects and Reasons makes it absolutely clear that there are some people who doubt whether the issue will be legitimate, or whether the marriage will be valid. To place the matter beyond all doubt, a measure of this kind is needed, and the fact that Mr. B. Das does not know even this much, does conclusively show that there are people in this country who may doubt the validity of such marriages and the legitimacy of the offspring of such marriages. Considered from all these standpoints, I think it will be no use sending this Bill out for circulation. It would only mean that it would not be passed as soon as one would desire to see it passed, and I think that the interests of the Arya Samajists and the larger interests of the country require that a Bill of this nature should be placed upon the Statute-book as soon as possible, so that there may be no doubt or dispute among persons interested in such disputes or litigation. I whole-heartedly support the motion.

Mian Mohammad Shah Nawaz (West Central Punjab: Muhammadan): I desire to make a few observations on this important measure of legislation. Undoubtedly clause 3 gives rise to grave misgivings. As the clause stands it may be interpreted to validate a marriage between an Arya Samajist and a Muslim, and to that extent it is contrary to Muhammadan law of marriage by which the Mussalmans are governed. A Muslim woman cannot lawfully marry a non-Muslim. Even if the woman is an Arya Samajist and the husband is a Mussalman, clause 3 will validate such a marriage. Such a law will be strongly opposed both by the Muslims and the Hindus, including the Arya Samajists. The Honourable the Law Member may enlighten us on this point, but I have no manner of doubt in my mind that clause 3 will not be acceptable to the Muslim community because it may be interpreted to make valid a marriage between an Arya Samajist and a Muslim. If the Mover of this Bill agrees to delete from clause 3, line 4, the words "or to different religions", the Bill may be referred to the Select Committee at once. I confess Sir, that I do not believe in the caste system at all.

Dr. A. Suhrawardy: Does the Honourable Member believe in Muslim law?
11 Noon.

Mian Mohammad Shah Nawaz: I do believe in Muslim law.

Dr. A. Suhrawardy: But the Honourable Member is misrepresenting it.

Mian Mohammad Shah Nawaz: I am not misrepresenting it at all. I do not understand what my friend means. Well, Sir, I do not believe in the caste system. I think that the Arya Samaj is a distinct community in itself; its members say that they do not believe in the caste system, and in order to remove any doubts that there may be about the validity of their marriages, they have brought forward this Bill in this House. They say that the cloud should be removed and the marriages, if doubtful, should be declared valid. Who can refuse legislation and justice to them? If the whole Arya Samaj community says—and I believe the whole community is behind this measure—that doubts as regards the validity of our marriages should be removed, then we have no business to deny this measure to that community. As I said, I am here only to protect my own community, and if the word "religion" is deleted, I think this measure should go to the Select Committee. Sir, I do not agree with the observation of my esteemed friend Pandit Madan Mohan Malaviya, that this Bill will complicate or upset the Hindu law of succession. The Arya Samajists are, in matters of succession governed by the Hindu law. The Hindu law of succession will in no way be interfered with if both the parties to the marriage are Arya Samajists. All Arya Samajists are Hindus none the less. They are a sect of Hindu religion. Sir, I am inclined to support any legislation which would abolish the caste system throughout India particularly when Hindus desire to get rid of it.

Mr. Mukhtar Singh (Meerut Division: Non-Muhammadan Rural): How would you safeguard the interests of converts to the Arya Samaj?

Mian Mohammad Shah Nawaz: That is quite a different matter. If conversion is allowed by the Hindu religion or Hindu law, then the marriage between an Arya Samajist and the person who has adopted the faith of Arya Samajist would be valid. In short the provisions of this Bill should apply only to those persons who are Arya Samajists at the time of marriage. Sir, I strongly object to the wording of clause 3 of the Bill. It is so ambiguous and gives rise to grave misapprehensions, as it allows marriage between an Arya Samajist and a non-Arya Samajist or a non-Hindu. The Honourable the Law Member may be called upon to express his opinion on this point. I believe the author of this Bill intended to restrict its application exclusively to Arya Samajists, but the language of clause 3 is extremely vague and the clause may be interpreted differently by courts of justice.

Dr. A. Suhrawardy: Sir, whatever doubts I had as to the wisdom or otherwise of the motion for referring this Bill to the Select Committee or that for its circulation for eliciting public opinion thereon have been set at rest by the speech of my Honourable friend Mian Mohammad Shah Nawaz. Though he has tried to make out a case for the reference of the Bill to the Select Committee he has, perhaps unwillingly, made out a strong case for the circulation of the Bill for eliciting public opinion thereon. He has throughout laid stress on the marriage of a Muslim woman and an Arya Samajist. He seems to be under the impression that the Muslim law forbids the marriage of a Muslim woman with an Arya Samajist. But the Muslim law is quite clear on the point. No marriage is valid between a Hindu, whether he is an Arya Samajist or Brahma Samajist or any Samajist, and a Muslim woman or between a Muslim man and a Hindu woman. It is not the case, as my Honourable friend Mian Mohammad

[Dr. A. Subrawardy.]

Shah Nawaz seems to think, that it is only a marriage between a male Arya Samajist and a Muslim female which is invalid under the Muslim law.

Mian Mohammad Shah Nawaz: I say that I agree with you. I was not dealing exhaustively with the law of marriage between a Muslim and a non-Muslim. I simply gave an illustration.

Dr. A. Subrawardy: But you made out your case in such a way that it created the impression that it is only a marriage between a Muslim woman and an Arya Samajist man that is invalid under Muslim Law.

Now, I come to the strongest point in favour of the motion for circulation which has been raised in my humble opinion, not the one about difference of religion, but that pointed out by the Honourable Pandit Madan Mohan Malaviya. The definition of an Arya Samajist is so wide as to include Christians and Muhammadans within its scope. In clause 2 (b) it is said that :

"An Arya Samajist shall mean a person who is a member of the family of, or a relative dependent on, or a person under the guardianship of, any person mentioned in clause (a)."

In these days of Shuddi it is possible for some Mussalman to be reclaimed as a Hindu by the agency of an Arya Samajist whose dependents and relations may all be Muslims. So, under this definition a marriage between a Muslim man or a Muslim woman with an Arya Samajist becomes lawful. That point should not be lost sight of.

Then there are various other points on which I need not dilate just at present. The Honourable the Home Member said that there were two points made out by the Mover of the motion for referring the Bill to the Select Committee, namely, that it solely concerns a particular community and that that community is unanimous in its demand. My Honourable friend Pandit Bhargava has helped me now so far as the second point is concerned by stating that that community is not unanimous in its demand. He said there are orthodox people who are opposed to it.

Pandit Thakur Das Bhargava: I never said that. I only said that this is a permissive measure and it is not binding on those who do not believe in it.

Dr. A. Subrawardy: The Honourable Member has at least drawn attention to the fact that there may be orthodox Arya Samajists who may not like this measure, and therefore he has made out a case for the circulation of the Bill. I am grateful to him for bringing out this point to the House. With regard to the first point, namely, that it solely concerns a particular community, the Honourable Pandit Madan Mohan Malaviya has pointed out, and I have also submitted just now, that it does not affect the Arya Samaj alone but it affects a large body of the Hindu public, of which the Arya Samaj is only a sect or a sub-sect, and it also affects the Christians and the Muslims because the definition as given in clause 2 (b) is so wide as to include them as well. With these remarks I oppose the motion for the reference of the Bill to the Select Committee and I support the motion for its circulation for eliciting public opinion thereon.

Khan Bahadur Sarfaraz Hussain Khan (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, I oppose the measure. More correctly speaking, I oppose the motion that the Bill be referred to the Select Committee because I see that there is some sinister desire behind it. I am for circulating the Bill to elicit public opinion thereon. We can only know the real

facts of the case when the Bill is so circulated. I therefore oppose the motion that the Bill be referred to the Select Committee.

The Honourable Sir Brojendra Mitter (Law Member): Sir, my Honourable friend Mian Mohammad Shah Nawaz invited me to say something on the legal aspect. The observations which I wish to make will be confined to the legal aspect of the Bill. The debate this morning has clearly established the necessity for circulation. The validation of marriages of Arya Samajists is mentioned in clause 3. Does that clause contemplate that both parties should be Arya Samajists or only one party? My Honourable friend Pandit Thakur Das Bhargava said that it was obvious that both parties must be Arya Samajists because of the expression "by reason of the couple having belonged to different castes, etc." But, Sir, the clause runs like this. "No marriage of an Arya Samajist shall be invalid, etc., etc."

Dr. B. S. Moonje: The definition of an Arya Samajist is given above.

The Honourable Sir Brojendra Mitter: That surely implies that, if one of the parties to the marriage be an Arya Samajist, this clause will apply to that marriage. The definition of an Arya Samajist is given in clause 2.

Dr. B. S. Moonje: That shows who is an Arya Samajist.

The Honourable Sir Brojendra Mitter: I am not concerned with that. All I am concerned with at the moment is to point out that clause 3 certainly contemplates a marriage to which one of the parties is an Arya Samajist.

Pandit Thakur Das Bhargava: Will you call it an intermarriage of Arya Samajists?

The Honourable Sir Brojendra Mitter: The expression is, "No marriage of an Arya Samajist shall be invalid....." Therefore, whenever an Arya Samajist enters into marriage or contracts a marriage, this clause comes into operation. According to the ordinary grammatical meaning of this clause, if one of the parties be an Arya Samajist, this clause will apply. In that case the question arises, if the other party belongs to another religion, either Hindu or Muhammadan, what happens? Take the case which has been referred to in the debate, when the husband is an Arya Samajist and the wife is a Muslim. What personal law is to govern that marriage? This law which is sought to be enacted, or the Muslim law? It has been pointed out that a Muslim girl may not under the personal law of the Mussalmans marry a non-Muslim. That being so, you are affecting the Muslim law, to that extent. Then take the question which the Leader of the Opposition referred to, namely succession. Suppose the husband belongs to the *Dayabhaga* school of Hindu law and the wife is an Arya Samajist, who was, say a Christian or a Mussalman before the marriage. By what law will succession to the property of the husband be governed? The *Dayabhaga* law or any other law? Obviously the *Dayabhaga* law cannot apply because inheritance under the *Dayabhaga* law is governed by the capacity to offer spiritual benefit. The issue of such a marriage where the husband belongs to the *Dayabhaga* school of Hindu law and the wife was a non-Hindu before the marriage, the issue of that marriage cannot according to the Hindu religion offer spiritual benefit. Then, under what law will inheritance be governed? To that extent this Bill affects Hindus. I quite appreciate the motive of the author of this Bill, which is to validate intermarriages between Arya Samajists. Probably his intention was that both parties should be Arya Samajists at the time of marriage. Though they may cease to belong to other faiths or other religions, yet the question of succession remains, because after all

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the Arya Samajists are a sect of the Hindus. Now, I ask in the case I mentioned where the husband belongs to the *Dayabhaga* school and where the wife belongs to another religion, in such a case by what law is the succession to be governed? Certainly not by the *Dayabhaga* law.

Dr. B. S. Moonje: If both of them become Arya Samajists by executing a written document?

The Honourable Sir Brojendra Mitter: If Hindu law applies—and Hindu law does apply to Arya Samajists, which Hindu law? Certainly the *Dayabhaga* law cannot apply because the issue of such a marriage is not competent to offer spiritual benefit, which is the test of inheritance under the *Dayabhaga* school. No one can inherit who is not capable of offering *pinda*, and there *pinda* means spiritual benefit. This, Sir, is an attempt to legislate in haste. You are legislating for one purpose, which is a very laudable purpose, that is to validable marriages, but you are in haste omitting to provide for the consequences. For these reasons, I submit that it is essential that the Bill should be circulated for the purpose of eliciting opinion from the communities affected. In the view I take of the interpretation of clause 3, namely, that clause 3 applies if one of the parties to the marriage is an Arya Samajist, if that view is correct and that view has been taken, at any rate, by some of the Honourable Members

Dr. B. S. Moonje: That may be corrected in the Select Committee.

The Honourable Sir Brojendra Mitter: If that view is correct, then all the communities affected by this measure should have an opportunity to express their opinion on this Bill. If you say that the real intention of the clause is that both parties to the marriage should be Arya Samajists, then what are we committing ourselves to? Who is to say that? In the Select Committee a member may legitimately say, it was intended that it should apply to a marriage in which one of the parties is an Arya Samajist. What are we committing ourselves to, today?

Dr. B. S. Moonje: Intermarriage of Arya Samajists.

The Honourable Sir Brojendra Mitter: Dr. Moonje knows very well that the Preamble is not the operative part of the Act.

Dr. B. S. Moonje: I am speaking of clause 3.

The Honourable Sir Brojendra Mitter: Clause 3 says, "No marriage of an Arya Samajist . . ."

Dr. B. S. Moonje: It is "Validation of intermarriage of Arya Samajists".

The Honourable Sir Brojendra Mitter: Clause 3?

Dr. B. S. Moonje: Refer to the Short Title.

The Honourable Sir Brojendra Mitter: It is settled law that neither the Short Title nor marginal notes form part of the Act itself. The Short Title will not govern the clause. Leaving that aside, what I am submitting is this. What is it we are committing ourselves to if this Bill is sent to the Select Committee? Are we committing ourselves to a case where both parties are Arya Samajists or where one of the parties is an Arya Samajist? It is a matter of doubt. Both views have been expressed in this House. Then, we do not know what we are committing ourselves to. Sir, I submit that the Bill should not be referred to a Select Committee for valid reasons. Firstly, we do

not know the views of other communities that are affected and their opinion ought to be elicited. Secondly, the Bill is defective in that it does not provide for succession and in certain events that may be a question of very great difficulty and all communities except the Arya Samajists may be affected by it. This is pre-eminently a measure on which the opinion of the communities interested should be elicited before it is sent to a Select Committee.

Mr. M. S. Aney (Berar Representative): Sir, I, for myself, have no objection to either of the two courses, *viz.*, to the Bill being sent to the Select Committee, or being sent out for eliciting opinions thereon.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): How can both be done?

Mr. M. S. Aney: Both cannot be done. That is precisely my difficulty. Otherwise, I would have given my votes for both the motions simultaneously and the Honourable Deputy President ought to know that. There are certain difficulties which have been pointed out, but the main difficulty on which the Honourable Law Member and some of my Muslim friends have laid great emphasis is one which relates to the wording of clause 3 of this Bill. I do admit that the wording is some what unhappy so as to give out something more than what the framer of the Bill originally intended. There is no question of that. If he really wanted to confine it, as I know for certain that he really did intend to confine the clause to marriages which he considers to be inter-caste marriages among the Arya Samajists only, then the present wording of that clause requires to be modified altogether. Having put in the singular term, "No marriage of an Arya Samajist, etc.", it assumes the possibility that the other party to the marriage may even belong to any other sect or religion except the Arya Samaj. That interpretation is inevitable; but I believe that if we precisely know what the real intention of the Bill is, then it should not certainly be difficult to tackle it successfully in the Select Committee. The Honourable the Law Member has said that we do not know what the principle of the Bill is. It is true that it creates some doubt. But I beg to point out, in all humility to the Honourable Law Member, that on more than one occasion in this House when the principle of a Bill was found to be ambiguous, it could be stated very clearly by the Honourable gentleman who moved the Bill, and the House on that assurance could send it to the Select Committee and consider the Bill on its own merits. That has been done on more occasions than one. Therefore, I believe that there should be no difficulty on that score in the way of the Honourable the Law Member or others in giving their consent to the motion for reference of the Bill to the Select Committee. I believe that these precedents are known to the Honourable Members and I need not remind the Honourable Law Member and others of the occasions on which we got the principle specifically enunciated here on the floor of the House, in spite of the fact that the draft of the Bill before the House sometimes implied more than what was thus agreed to be the principle at that time.

But there is another difficulty and that I really feel is rather a serious one, *viz.*, the difficulty as regards succession, to which the Honourable the Law Member has drawn attention. The question as to what rule of succession will apply, whether the rule of *Dayabhaga* or any other rule will govern the progeny of the marriage of the kind contemplated by this Bill, is really a question which cannot be easily settled. And when we bear

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in mind the fact that when we wanted to make legal provision for marriages between two sub-sects of the Hindus we had to deny them the personal law of the Hindus and allow them to be governed by the provisions of the Indian law of succession only, it will be clearly seen by my friends, with whose laudable object in moving the Bill I have every sympathy, that the question of succession cannot be altogether separated from the question of marriages of such nature. Because the law of succession applicable to any body of persons is intimately related to certain principles of marriage inherent and prescribed in that system of law. If one abandons those principles of marriage even for very good reasons with legislative sanction, then the Legislature must simultaneously consider the question of succession or make adequate provision for difficulties arising out of the principles of succession in the Bill itself. I do not say the principle of succession according to Hindu law should be necessarily denied in all such cases. But if we do not make any adequate statutory provisions for that, legal difficulties will crop up. These difficulties cannot be satisfactorily solved without giving rise to very contentious and even expensive litigation unless there are statutory provisions already recognising in definite terms the application of the principles of inheritance and succession governing the progenies of these marriages. These are matters which have to be considered. My friend Pandit Thakur Das Bhargava has very eloquently and plausibly pleaded that the Arya Samajists being Hindus, they would be necessarily governed by Hindu law. But we know that in the case of Hindus for whom legislative provision of similar marriages had been made before, the ordinary Hindu law does not necessarily govern them as regards succession. How can it be then asserted that the present Bill will not have a similar effect on the rights of succession as regards the progeny of the marriages under this Bill? If we want them to be governed by Hindu law also as regards succession, we have to state that by a clear provision inserted in the Bill itself. Whether it will be necessary or not, is at least a point of sufficient importance requiring to be carefully threshed out by competent lawyers. These are the considerations that make me somewhat diffident in asking this House to rush through the Bill at once. As I said in the beginning, I want this Bill to be taken to the Select Committee at once, but there are other considerations which make me feel that a little more time should be bestowed on a detailed consideration of the provisions as well as the consequences that are likely to arise therefrom. In these circumstances I believe the House will give its best consideration to all the points of view and find out on what side the balance of advantage lies before voting on the motions that are before it.

Mr. K. V. Rangaswami Ayyangar (Madras: Landholders): Sir by clause 8 of the Bill it is not clear whether the conversion should be precedent to the marriage or not. It has been contended by the Mover and his party that the Bill refers only to a marriage among Arya Samajists, and whenever they marry a girl or a boy in their religion, he should be first converted to the Arya Samaj and then married. But it is not clear from the Bill whether the conversion should precede the marriage. I think it is better to make it clear before passing a Bill of this sort. Sir, the Arya Samajists are Hindus and yet they rush into the Assembly with a Bill to treat them as separate from the Hindus and enact a measure apart from the Hindu law! And yet the whole of the Arya Samaj have supported the Bill. I do not know how they have done that.

Further, there are not only difficulties of inheritance, but there are difficulties in the marriage itself. They have not defined all the bearings of marriage. What are their codes of marriage and what are their recognitions of a marriage, and do they practise polygamy and do they favour dissolution? It is not also defined who is an Arya Samajist. One may follow at heart the tenets of the Arya Samaj and at the same time he may have faith in other forms of worship and *puranas*. But without defining who is an Arya Samajist, and without defining all the bearings of their marriage customs, it is not proper to rush in with a Bill of this sort. At least I do not commend the wisdom of their having a separate law apart from the Hindu law. No doubt, Sir, it is a validating Act unlike the Child Marriage Act which is a penal measure, and they may say that it is only confined to their folds. But it has got very many difficulties behind it. The difficulties I have explained may not appeal to them, the Hindu law-giver may not appeal to them, but let me appeal to them in the name of protection. The Arya Samajists are patriots, and if anybody appeals to them that their industries or commerce should be protected, they at once support it. Sir, there are their humble sisters and daughters, and if I appeal to them in the name of protection, I do not know whether they will listen to me. Sir, in these days of competition, I appeal to them for the protection of their sisters and daughters in the face of foreign competition. I say, Sir, that our daughters and sisters are very humble in their winning ways and manners and in the name of protection even if a validating Act is to come into force, I do not know if there will be many suitors for their daughters and sisters as against foreign competition. I appeal to them in the name of protection. I do not know whether they will listen to my appeal or not. I therefore support the amendment that this should come to the Assembly after some time and not be passed into law at once.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): I find myself in this unhappy position, Sir, that I am unable to accord any support to either of the motions now before the House. Both on general and on special grounds I have got my difficulties. I cannot, speaking generally, accept the *obiter dictum* propounded by one of the sponsors of this Bill; in fact I would take great objection to it. He said that it was the business of this Legislature, nay the duty of this Legislature, to afford all possible protection to all kinds of marriages. That general statement I cannot subscribe to. It is funny to be told that all of us, non-official Members specially, come here just to do such odd work; that our most sacred duty is not to fight for Swaraj, nor to fight for getting some kind of political control over the Executive, nor to see that in some measure the burdens on the people are lessened; but that our duty is to afford protection to all kinds of marriages, good bad or indifferent, in this world. That is a dictum, I repeat, I cannot accept. I feel very strongly about this; and that is why I have been standing so many times in my seat this morning. I deplore keenly that, time after time, session after session, we waste all our energies, all our resources, Government and everybody else, on some one kind of marriage Bill or another. It was the Rai Sahib gentleman there at one time who kept us for a number of sessions busy with a measure which is now before the world for whatever it is worth, as a law. Now here is another gentleman—he is not yet a Rai Sahib—who wants to worry us with another Marriage Bill. So hereafter, every session some one or other will be tempted to come forward with one marriage Bill or another. I would not be surprised

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if in these very advanced days somebody comes forward and proposes some very civilised system of marriage between biped and a quadruped, and says that it is the duty of the Legislature to afford protection to his new race. That protection should be given, legislative protection, mark you, to every kind of marriage, is a dictum that I, in my humble capacity of a layman am unable to accept. I feel, Sir, a little nervous of what account I should give of myself when I go back to my electors, and when they put to me the question. "What have you done so far?": Am I say, "We spent about 20 days last September on some marriage Bill, and this year also we have had a marriage Bill to engage our most serious attention"? Now, this Bill will go out for circulation according to the Home Member's amendment; after circulation it will return to us and then go to a Select Committee, and the Honourable the Law Member and the Honourable Home Member and various other Members will have to spend no small part of their time on this precious Bill. Then we shall be examining clause after clause of this wonderful Bill; and then, if this be not passed the heavens will come down! With what honest face shall we go and tell the electorate that we have done all this as most essential and urgently needed for lightening the burdens on the toiling millions? My friend there seems to think that this is the real kind of work for which we are sent here, that these are the important items of legislation to which we should pay our best attention. It may appear so to faddists. Not being a faddist today, I cannot say that we are at all doing the right thing. On the other hand I have to state frankly that in my humble opinion we are wasting our precious time and the resources of the country. We are criminally wasting our energies in paying attention to all kinds of odd proposals, laying aside all good real business. It is, I repeat, an intensely immoral waste of time, attention and money, to consider such tenth-rate things.

I have got other difficulties too. Here are some people who claim that they belong to some kind of Samaj. I have no quarrel with them if they keep their fancies to themselves. I too started a Samaj in my own way, a Bhakta Samaj, some years ago, for I too had then my fads and fancies. But by what right can I force my fancies on others for their acceptance? I do not think that this is the place for talking about Arya Samajists either as vanguard Hindus or rear-guard Hindus, for speaking of Arya Samajism as the most ancient Hindu creed or the most modern, and their religious rites as either the best or the worst. My one main contention is that all of us are human beings; all are of one common humanity. I remember in the old days reading:

"When Adam delved and Eve span who was then the gentleman?"

We may think that all of us are the children of Adam or of Manu, or of apes, or of angels: why quarrel over these fads? Aryan and non-Aryan and all that is the manufacture of some idle busy ethnologists of old who in their half-learning—and half-learning is always more dangerous than no learning—fabricated, with the best of intentions, all kinds of rubbish, as also theories of the Aryan's original home having been in the Caucasian regions or in the Baltic or Arctic or other regions, and so on and so forth.

I find my Honourable friend, Mr. Kelkar, looking at me. Well, I had a long tussle once with the late Lokamanya Bala Gangadhar Tilak, some time before his death, about his book "The Arctic Home of the Vedas". I had my own views, and I put them before him. He was a great man, never afraid to confess if he thought he was wrong; so he admitted to me

that he was misled in writing that book by the theories of European Indologists about which he had had his suspicions. He was ready to revise his theories and admit that the Aryans did not come from anywhere outside India.

All this is by the way. Now all this talk about Aryans *versus* Dravidians and so on is, in my opinion, wicked nonsense. It is true I come from the Chingleput district; but that does not mean that I belong to a Chingleputian race. It is no more safe to say that all those that come from North Western India are a race by themselves, or that those who come from Bengal are a race by themselves and so on. The thing is that 50 or 60 years ago Professor Max Muller and others wrote all kinds of learned nonsense, and we used to read all that in those days quite optionally and in the highest College classes. But all those silly fads with an 'i' dotted here or a 't' dashed there are now crammed into the heads of unsuspecting boys and girls as facts proved of Ancient Indian History. Nor does the mischief end there. Older people come here saying they are Arya Samajists, Brahmo Samajists, or Adayar Samajists and so on; they want that the Honourable the Law Member, and the Honourable the Home Member, and others should lay aside all other work and deal with validating the marriages that each Samajist takes a fancy for! Sir, I think we must have a little more sense of proportion, distinguish between those things which are really essential and those which are not; and for some time to come consign the things that are non-essential to the best place to which they can be consigned—the waste-paper basket! I wish there were amendment or motion that the Bill be sent to the waste-paper basket, which would be a much more sensible proposal than either the original motion or the amendment of the Honourable the Home Member. I always object and on principle, to marriage legislation by a heterogeneous body. There is no principle in saying that people wanting to marry outside their caste *must* be protected. If I choose to marry whom I like, I do so at my risk; and I have no right for special protection of prestige or property and things of that kind. I do not think that any such protection is at all morally justified.

Now if my friend Mr. Sarda's Bill is going to come into effect from 1st April, I would rather take all the risks and consequences of disobeying the law than beg for protection from anybody's hands. Therefore, Sir, all this seems to me to be beating about the bush. I wish we had better work to do. I think that Members of this House who have any sense of responsibility should deal with really serious business in this House, or if there is no serious business to be done, they should go home and sleep soundly. That will be doing much better work. I therefore strongly oppose the motion before the House.

An Honourable Member: Is there any more serious work than this?

Mr. M. K. Acharya: I fear, I cannot enlighten my friend better than I have tried to do.

Now, Sir, I know we cannot always get what best we desire, that the lesser of two evils has often to be chosen, and on that score I shall vote for the Honourable Home Member's amendment. But on purely logical grounds and on moral grounds too I should consider that we have already wasted an hour and forty-five minutes of our precious time, and if any further waste of time like this is indulged in, it is a matter for which we shall be answerable in another place at least, those of us who having pledged ourselves

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to serve Mother India's highest call, are thus frittering away our energies. Let us beware of the answer that we shall have to give in that other place.

Mr. Mukhtar Singh: I am very thankful to the House for having given me a patient hearing and to the different criticisms made on this Bill. I am very glad, Sir, that Honourable Members here have given their very best consideration to the Bill that is now before them. There are a few objections that have been taken against my motion, and they may be divided under two different heads. The first point that has been raised is that, according to the Honourable the Home Member, it is doubtful whether the whole community of the Arya Samajists is behind the Bill. The same doubt has also been expressed by some other Members. I stated in my speech that the whole of the Arya Samaj community is behind the Bill, and my reasons were clear. I stated that in 1925 all the Arya Samajists gathered together at Muttra and they decided by a unanimous vote that such a measure was necessary. Not only that, they asked the all-India Aryan League (Sarvadeshika Sabha) to which all the provincial Arya Samaj associations are affiliated to draft this measure. The present Bill is the draft approved by the Sarvadeshik Sabha. This makes it quite clear that the whole community is behind the Bill. Not only that, I have received a number of resolutions by letters and by telegrams from the Punjab, from the United Provinces, from Guzarat, from Madras and from Bombay.

Mr. M. S. Aney: I have got two from the Central Provinces also.

Mr. Mukhtar Singh: My friend also has received resolutions from the Central Provinces. That clearly shows that the whole community is behind the Bill, and I am assured that a copy of these resolutions and telegrams have been sent to the Government also. The second point is the object in view to be achieved by this Bill.

Now, Sir, as I stated in the Statement of Objects and Reasons, there is really a very great difficulty in the way of the Arya Samajists; they have to do something which they do not believe in, and in order to remove that difficulty this Bill has been placed before this House. As my Honourable friend, Mr. Shah Nawaz, stated, if there is a real difficulty, the House should help the community. It is in that spirit that I have placed this Bill before the House. Objection was also taken on the ground that no harm would be done if the Bill was sent for circulation. If the Bill is sent for circulation, the result will be that you cannot pass it within the lifetime of this Assembly.

Mr. A. H. Ghuznavi: Why didn't you introduce it earlier?

Mr. Mukhtar Singh: I am asked why I did not introduce the Bill earlier. I sent my Bill more than two years back. It was on the ballot every time and on two occasions it was put on the agenda. It is not my fault that it did not come up earlier. This is generally the fate of all non-official Bills. When we can pass the Bill into law now, why should the House try to kill the Bill in this way?

Mr. A. H. Ghuznavi: It is too late now.

Mr. Mukhtar Singh: If the Government had given the assurance, which they could very well do, that after sending the Bill into circulation, they

would agree to refer it to Select Committee in the beginning of the next Session, and then give a few days for its discussion, I would have had no objection, but the Government have refused to give any assurance of that kind.

Mr. A. H. Ghuznavi: How do you know there will be a next Session?

Mr. Mukhtar Singh: This is a real difficulty in the way of my consenting to the circulation of the Bill. As to the objections that have been raised, I see there are no points which cannot be remedied in the Select Committee. The Bill can very well be revised, modified and altered in the Select Committee, and there will be no harm if the Bill is sent to Select Committee. I may give the assurance, if that is needed, that it was not my intention, and is not my intention, that the Bill should apply to persons other than Arya Samajists, and when that assurance is there, the Government or the House should not have any objection to referring it to the Select Committee. I thought it was quite enough to put in the Preamble the words "inter-marriage of Arya Samajists". These words clearly show that it is not intended to apply to anybody else. Certainly, as I admitted in my speech, I am not a skilful draftsman and the language has to be improved. Unfortunately in this country we have to think, write and speak in a foreign language; and if the draft does not convey the sense, it is not my fault; it is the fault of the system under which we live. The Government and the other Members should help me rather than find fault with me on that score.

Certain objections have been raised, Sir, to which I consider it my duty to reply. It pained me to find that my revered leader also opposed my motion on a ground which hardly satisfied me at all as being a valid ground on which my motion ought to be opposed. It seems that my revered leader wants that the Arya Samajists should be governed by Hindu law. If that is so, it is also my desire that they should be governed by Hindu law; and the very fact that I sent this Bill, clearly shows that Arya Samajists want to be governed by Hindu law. Why then is objection taken on that score? If that was not our desire, we could very well have gone before the Registrar under the Special Marriage Act and declared that we are Hindus and we do not want to be governed by the caste system. The result would have been that we would have at once ceased to be governed by Hindu law, and perhaps my revered leader would have no objection then.

Pandit Madan Mohan Malaviya: The matter requires consideration and adjustment.

Mr. Mukhtar Singh: If the matter requires consideration and adjustment, then the Select Committee is the proper place to do it; and that is the only thing I want. But the very fact that we do not want to take advantage of this Special Marriage Act clearly shows that the Arya Samajists do not want to sever their connection with the Hindus; rather they want to be governed by Hindu Law; and this is why they are forced to place this measure before you. No objection should therefore be taken on that score.

I was rather surprised to hear the speech of the Honourable the Law-Member. He stated that there would be difficulty in governing succession, and he has told us how a couple—one belong to the *Dayabhaga* school and the other belonging to some other religion converted to Arya Samajism

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—would find difficulty as regards succession. I am afraid the Law Member did not realise that the difficulty was there when the Brahmos took advantage of the Civil Marriage Act. Hundreds of marriages had taken place amongst Brahmos who are all governed by *Dayabhaga*; if they could be governed by *Dayabhaga* law even after a declaration under the Civil Marriage Act—before its amendment took place in 1928—what is likely to be the difficulty in the case of the Arya Samajists? Mind you the Brahmos declared themselves to be non-Hindus. If in the case of those persons who declared themselves to be non-Hindus and were still governed by Hindu law there was no difficulty in interpreting the *Dayabhaga* law, I do not understand what difficulty there will be in applying the *Dayabhaga* law to the Arya Samajists.

There is another point. The Law Member, if I may be permitted to say so, has entered into a fallacy. On the one hand he tries to understand how the succession will be governed, and on the other he tries to understand the principle upon which the succession is based. He considers that the theory of *pindas* is the guiding principle in succession amongst the Hindus. It may have been that it was so; but does he not know that the Arya Samajists do not believe in the *pinda* theory? Let me ask him this. If his son becomes an Arya Samajist, certainly he cannot give any benefit to the spiritual soul; rather he will refuse to do it, and what will become of his property? Supposing this Bill does not come into effect at all, will there be any difficulty in succession? (*An Honourable Member*: "He does not require any spiritual benefit from his son.") My Honourable friend suggests that there is no necessity of spiritual benefit in his case; but it is not an individual question, it is a question of all those who are Hindus, whose sons are Arya Samajists who do not believe in the *pinda* theory—whether their succession will be governed by the Hindu law or by something else. If in those cases there is no difficulty in interpreting the law

The Honourable Sir Brojendra Mitter: In such cases it is the capacity to offer *pindas* that entitles a man to inherit, not his willingness.

Mr. Mukhtar Singh: But he has incapacitated himself by becoming an Arya Samajist, because he has converted himself to a faith which does not believe in that thing. And then what about the Brahmos, who do not believe in the Hindu religion at all?

The Honourable Sir Brojendra Mitter: The case of Brahmos has created great confusion and we do not want confusion to be worse confounded.

Mr. Mukhtar Singh: I see; in the case of the Brahmos the Law Member or his Government do not want to set at rest the confusion that is said to have been created; but he is afraid of any further confusion. If that confusion can be set at rest by the Calcutta High Court, I think the analogy will apply in this case also; and if the Law Member does not want that litigation should be multiplied in this country, then it can very well be safeguarded by adding a clause to this Bill that the succession of the issues of such marriages will be governed by Hindu Law, though I do not consider there is any necessity for it; but if that necessity is there, then it can very well be safeguarded by adding a clause. You are not committed to this, that there should be only three clauses in this Bill; there may be four or more if need be.

The other and a very serious objection that has been raised by my Muhammadan friends is the apprehension that it will include those cases in which the woman may be a Muhammadan. I beg to submit that, as far as I can understand the English language, I have tried to meet that objection by saying "having belonged to different castes or sub-castes of Hindus or to different religions". I thought that it meant that, before the marriage had taken place they might have belonged to any religion, but at the time of the marriage they must be Arya Samajists; and if that meaning is not conveyed by the words that I have used, certainly the language can be improved. As I have already submitted, I do not want—the Arya Samaj community does not want—to take advantage of this Bill in the form which has been suggested or apprehended by my Muhammadan friends; and if there is any apprehension of that kind still, it can very easily be guarded against. But as regards conversions, there is really a very great difficulty. There are a number of Muhammadans, Christians, Sikhs and others who have joined the Arya Samaj. Their sons and their daughters have to be married. They are being married even to-day, but the question is about their status. They are not Hindus, because according to the opinion of some lawyers, the Hindu religion is considered not to be a proselytising religion, and therefore conversions are not recognised. But the Arya Samaj does believe in conversions; it has converted so many people. Do you want that a large number of men and women who have been converted should have no status at all? Not because the Hindu society does not want to give them any status but because the Government of the country does not want that any status should be given to them? I ask, Sir, that if a Hindu becomes a Muhammadan or a Christian and he can at once be assimilated by Christians or Muhammadans and he can at the same time inherit property without any difficulty, why should there be any hindrance in the case of those who become Arya Samajists? Rather the law of the land has gone a step further, inasmuch as according to the Punjab High Court, a Hindu who has become a Muhammadan can inherit the property of a Hindu. If that is so, Sir, why should there be any difficulty in the case of those who are converted to Arya Samaj? I consider, Sir, it will be far from my Mussalman friends to create any difficulty of that kind, because they themselves realise that they should be fair to others. If they only apprehend that an undue advantage of this measure may not be taken I shall be the last man, rather my community would be the last, to take any undue advantage of a measure like this. If an elucidation on this point is needed, that can very easily be done in the Select Committee. I am very much obliged to my Mussalman friends for having stated their own difficulties so frankly, but to suggest that there is any sinister motive behind this Bill or that the Arya Samajists want to take advantage of the Legislature in order to achieve their ends is rather too much, and I hope my Muhammadan friends will not entertain any such idea in their minds.

In conclusion, Sir, I want to say only a few words. Here is a community which does not believe in the caste system, which does not believe in the prohibition of marriages between a man of a lower caste with a woman of a higher caste. Do you want to penalise that community for that conviction? If that is their religion and they really believe that, according to the interpretation that they put on the Shastras, they should not restrict their marriages to the caste to which they belong, then why should they not be allowed to give a practical shape to their convictions? They

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have made up their mind to marry outside their own caste without caring for the consequences. They are already doing so. As I have told the House, in the year 1929, as many as 1,685 marriages have taken place. I would ask the House to consider the matter very seriously. It would have been much better if the Government had come to their help rather than that the Arya Samajists should be forced to bring in a measure of this kind; but that was not to be now when the Bill has reached a certain stage, and when it is likely to become law, why should the Government put obstacles in the way? If there are any doubts, and those doubts have to be cleared so as to place the law beyond all shadow of doubt, by all means suggest the necessary amendments and improve the Bill, but do not try to kill the Bill. With these words, Sir, I commend my motion to the House.

Mr. President: The original question was:

"That the Bill to finally recognize and place beyond doubt the validation of inter-marriage of Arya Samajists, be referred to a Select Committee consisting of the Honourable the Home Member, the Honourable the Law Member, Dr. B. S. Moonje, Mr. Vidya Sagar Pandya, Sardar Gulab Singh, Pandit Thakur Das Bhargava, Rai Sahib Harbilas Sarada, Mr. Fazal Ibrahim Rahimtulla, Mr. N. C. Kelkar, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Since which the following amendment has been moved:

"That the Bill be circulated for the purpose of eliciting opinions thereon."

The question is that that amendment be made.

The Assembly divided;

AYES—60.

Abdul Aziz, Khan Bahadur Mian,
Abdul Matin Chaudhury, Maulvi.
Abdul Qaiyum, Nawab Sir Sahibzada.
Acharya, Mr. M. K.
Alexander, Mr. W.
Anwar-ul-Aziz, Mr.
Ayyangar, Mr. K. V. Rangaswami.
Banarji, Mr. Rajnarayan,
Baum, Mr. E. F.
Chambers, Mr. G. W.
Chatterjee, The Revd. J. C.
Cooke, Sir Hugh.
Cosgrave, Mr. W. A.
Crawford, Colonel J. D.
Crerar, The Honourable Sir James
Crosthwaite, Mr. H. S.
Das, Mr. B.
Farookhi, Mr. Abdul Latif Saheb.
Ferrers, Mr. V. M.
French, Mr. J. C.
Ghuznavi, Mr. A. H.
Gwynne, Mr. C. W.
Haji, Mr. Sarabhai Nemchand.
Hamilton, Mr. K. L. B.
Hira Singh Brar, Sardar Bahadur,
Honorary Captain.
Howell, Mr. E. B.
Jawahar Singh, Sardar Bahadur
Sardar.
Lahiri Chaudhury, Mr. D. K.
Lindsay, Sir Darcy.
Malaviya, Pandit Madan Mohan.

Mitra, The Honourable Sir Bhupendra
Nath.
Mitter, The Honourable Sir Brojendra.
Mody, Mr. H. P.
Monteath, Mr. J.
Moore, Mr. Arthur.
Mukherjee, Rai Bahadur S. C.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Parsons, Mr. A. A. L.
Rahimtulla, Mr. Fazal Ibrahim.
Rainy, The Honourable Sir George.
Rajah, Rao Bahadur M. C.
Row, Mr. K. Sanjiva.
Sahi, Mr. Ram Prashad Narayan.
Sams, Mr. H. A.
Sarfaraz Hussain Khan, Khan
Bahadur.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Shafee Daoodi, Maulvi Mohammad.
Siddiqi, Mr. Abdul Qadir.
Singh, Raja Raghunandan Prasad.
Slater, Mr. S. H.
Suhrawardy, Dr. A.
Sykes, Mr. E. F.
Tin Tut, Mr.
Yakub, Maulvi Muhammad.
Yamin Khan, Mr. Muhammad.
Young, Mr. G. M.

NOES—10.

Aney, Mr. M. S.
 Bhargava, Pandit Thakur Das.
 Kelkar, Mr. N. C.
 Kunzru, Pandit Hirday Nath.
 Lalchand Navalrai, Mr.

Moonje, Dr. B. S.
 Mukhtar Singh, Mr.
 Pandya, Mr. Vidya Sagar.
 Rao, Mr. G. Sarvotham.
 Sarda, Rai Sahib Harbilas.

The motion was adopted.

 THE RESERVATION OF THE COASTAL TRAFFIC OF INDIA BILL.

***Mr. Sarabhai Nemchand Haji** (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to move that the Bill to reserve the coastal traffic of India to Indian vessels, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinion thereon by the 30th April, 1930.

The reason which prompts me to make this motion is that this House at the present moment does not consist of its full normal complement. The issues raised by the Report of the Select Committee are of so great an importance that it is desirable that a full House should debate upon them. As you are aware, Sir, a full House can meet only after the by-elections and the by-elections cannot take place until after the last day allotted for non-official Bills this Session. Moreover, under the Standing Orders, a motion has to be made in regard to this Bill in this Session if the Bill is not to lapse. Under the circumstances I move the motion standing in my name.

Mr. President: The question is:

"That the Bill to reserve the coastal traffic of India to Indian vessels, as reported by the Select Committee, be re-circulated for the purpose of obtaining further opinion thereon by the 30th April, 1930."

The motion was adopted.

 THE INDIAN STEAM-VESSELS (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I beg to move:

"That the Bill further to amend the Inland Steam Vessels Act, 1917, as reported by the Select Committee, be taken into consideration."

Sir, this measure has been before the public for about four years, and during this period it sometimes seemed as if it would encounter serious opposition from certain quarters in this House, but I am happy to be able today to ask the House to consider a unanimous report of the Select Committee on which all the various sections of this House were well represented. Sir, this measure seeks an extension of the principle of State interference in private enterprise in the public interest. It arms the executive government with authority to regulate the rates and fares chargeable by inland steam vessels by fixing maxima and minima limits. In a

*Speech not revised by the Honourable Member.

[Mr. K. C. Neogy.]

subsidiary provision it authorises the setting up of statutory Advisory Committees to safeguard the interests of the customers of the inland steam vessels services.

Sir, the principal provision is intended to prevent what has been compendiously termed "rate wars", of which my province has had a very sad experience in the past. Numerous instances are on record in which private Indian enterprise was throttled by unfair competition on the part of powerful combines which operated in the inland waters of Bengal. Sir, if this measure had been on the Statute-book years ago, we would by this time have, in my province at least, quite a number of indigenous concerns participating in the steam and motor traffic in the riparian tracts of Bengal. But, Sir, I do hope that now that we are in a position, with the concurrence of this House, to pass this very useful measure, the future will enable us to develop the indigenous industry on this line more effectively than has been possible in the past.

With these few words I commend my motion to the acceptance of the House.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I congratulate both the Government and also the Members of the European section of this House who sat in the Select Committee for the unanimity of the Report that has been presented to the House. Sir, when this Bill was taken into consideration, my Honourable friend Sir George Rainy was at the time feeling very diffident and so was also my friend Sir Walter Willson, who I regret to find is not a Member of this House any more. I am glad however that there were Messrs. Chalmers and Phillip in the Select Committee on behalf of the European Group, who with their Indian colleagues arrived at an equitable understanding and decision about minimum and maximum rates and about the Advisory Committees to control inland steamer companies.

Sir, I have only one little complaint to make. The Select Committee have left out Orissa, which has got certain steam vessel lines and large navigable waterways. Of course, the Honourable Sir George Rainy, who was at one time connected with my province, could have put in Orissa.

Mr. K. C. Neogy: The Bill does not exclude anybody.

Mr. B. Das: I expect that Orissa will be soon made a separate province and that there will be no rate war amongst the various inland steam vessel companies that would ply their vessels in the Orissa rivers.

The points that were raised by Mr. Neogy when he first moved the Bill were very pertinent and I need not go into the details again. I have however read a pamphlet which has been circulated by the Bengal National Chamber of Commerce and it publishes a letter addressed to the Secretary to the Government of India in the Commerce Department. I will only quote a paragraph to show that a rate war is still going on. This letter was addressed on the 7th September, 1929:

"Instances have been known of Bazar dealers importing portions of their stock by Indian-owned vessels being put to inconvenience by delay in allowing them space for jute consigned to the mills and presses, knowing full well that these mills and presses will not accept jute carried in Indian-owned vessels according to the terms of the agreement referred to. They are thus penalised for the 'offence' of patronising Indian companies."

This very pamphlet also contains a copy of the letter which the Managing Agents of the East Bengal River Steam Service Ltd., addressed to the Indian Mercantile Marine Committee:

"When the European companies found that this Indian Company was increasing its fleet and doing very good business and other similar companies were being started by Indians, they made an agreement with the mills restraining them from accepting jute carried on vessels owned and managed by Indians. And subsequently the Insurance companies, as if in sympathy, would not insure goods carried on our vessels at the same rate as goods carried on the European companies' vessels"

Further on it states:

"The Honourable Mr. Mackenzie of Messrs. Macneil & Co. even threatened us in so many words that, unless we sold or made over the management of this Company's business to them, they were determined to crush our Company. There are other weapons in use such as the arrangement that no rebate will be paid to shippers and consignees who have occasionally shipped their jute or coal by this Company's vessels and rate cutting."

I knew that my friend Mr. Haji was interested in Deferred Rebates for ocean-going steamers but I had no knowledge that such a state of things prevailed amongst the inland steam vessel companies as well. So, I am really grateful to my Honourable friend Sir George Rainy that he could come to an understanding and give Government support for placing on the statute a measure that will benefit the Indian Steam Companies plying in Bengal, Assam, Orissa and in various parts of India.

I may also bring it to the notice of the Honourable Sir George Rainy and the Government that it is no use our bringing forward measures like these unless Government co-operate with us to see them through. If Government could understand and appreciate the difficulties that Indian trade and commerce is passing through in the matter of inland steam vessels, navigation and inland water transport, and agree to place on the statute such a beneficial measure, they ought similarly to co-operate with non-official members of the House to place on the statute other beneficial measures and thereby the impression that has got about in the country that this Assembly is not serving any useful purpose, that impression will be removed from the minds of many. For that particular point alone, I thank my Honourable friend Sir George Rainy for taking that initiative.

The Honourable Sir George Rainy (Member for Commerce and Railways): I will not delay the House for more than a very few minutes. My Honourable friend Mr. B. Das has paid me a compliment which I in no way deserve. He expressed his gratitude to me for introducing the measure, but his gratitude is due to my Honourable friend Mr. Neogy for that, and not to me. Allusion has been made to what has been said in this House on previous occasions both by other Honourable Members and by myself. I frankly admit that at various times, the Government have had their doubts as to this Bill, and as Mr. Neogy himself admits, it is something of a novelty, and it remains to be seen how exactly the experiment would work. But Government have already accepted the principle of the Bill and they believe that the measure in the form in which it has emerged from the Select Committee is workable and that it can be administered so as to give fair play to all and to cause injustice to none. It is in that spirit that Government will attempt to administer this Bill if it is passed into law.

Mr. President: The question is:

"That the Bill further to amend the Inland Steam Vessels Act, 1917, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. K. O. Neogy: I move:

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

The motion was adopted.

THE MUSSALMAN WAKF VALIDATING (AMENDMENT) BILL.

Mr. A. H. Ghuznavi (Dacca Division: Muhammadan Rural): Sir, I beg to move:

"That the Bill to amend the Mussalman Wakf Validating Act, 1913, be referred to a Select Committee consisting of the Honourable Sir James Crerar, the Honourable Sir Brojendra Mitter, Pandit Madan Mohan Malaviya, Dr. A. Suhrawardy, Mian Mohammad Shah Nawaz, Mr. Muhammad Ismail Khan, Maulvi Muhammad Yakub, Mr. K. C. Roy, Mr. Anwar-ul-Azim, Mr. Muhammad Yamin Khan, Maulvi Mohammad Shafee Daoodi, the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I wish that this Bill was introduced by a lawyer who would have dealt with the subject more competently than a layman like myself. I shall presently show that it does not introduce anything new, and it only seeks to give a true interpretation of the Wakf Validating Act which was passed into law in 1913.

Mr. President: Is the Honourable Member going to take long?

Mr. A. H. Ghuznavi: No, Sir. I will only take five minutes. This Act was passed unanimously so far back as 1913. And it is only to amplify the meaning of this Act that this Bill has been introduced. I venture to hope that whether introduced by a lawyer or a layman, I shall get the unanimous support of the House. Sir, it is likely that the author being a layman, the Bill has not been drafted properly and requires modification. But it can be remedied in the Select Committee from which it will emerge in its proper form. I do hope that the House will agree with me that this Bill should be referred to the Select Committee and I hope Honourable Members would give it their unqualified support.

The motion was adopted.

THE COURT-FEES (AMENDMENT) BILL.

Rai Sahib Harbhas Sarda (Ajmer-Merwara: General): Sir, I move:

"That the Bill further to amend the Court-fees Act, 1870, for a certain purpose, be taken into consideration."

The Bill deals with a very simple and a small matter. It deals only with the court-fees payable on suits for maintenance by widows and it is applicable only to Ajmer-Merwara, though the matter the Bill deals

with is no doubt an all-India one. The reason is this: Two years ago, I sent in a Bill in identical terms with the present Bill but applicable to the whole of India. Government declined to accord previous sanction to introduce to me, probably as the revenues derived from court fees having been provincialised, it was thought that the Bill might affect provincial revenues and therefore it should be discussed and decided in the Local Councils. The Legislative Assembly is the Local Council for Ajmer-Merwara as that province is under the direct administration of the Government of India. Hence the Bill comes before this House.

The matter is a very simple one. Under the present Act, a widow suing for maintenance has to pay court fees on ten times the annual value of the maintenance. This operates as a great hardship on poor widows who have to sue for maintenance. A widow claiming Rs. 10 a month as maintenance has to pay court fees on Rs. 1,200 and then process fees to get witnesses summoned have to be paid also on Rs. 1,200. Widows who claim maintenance are poor and can hardly afford to pay such high fees. They have often to forego the right to sue for maintenance and have to live at the mercy of people who are under a legal obligation to maintain them. In cases where these widows are able to raise money to pay the High Court fees, they do so on terms which impose a very heavy, and sometimes an intolerable, burden on them. The Bill proposes to give facilities to these widows to file suits on payment of court fees on the annual value of the amount of maintenance instead of ten times the annual value. Sir, if this Bill is passed into law, it will give facilities to the widows and I do not think the provincial revenues will suffer any loss. I therefore ask that the Bill be taken into consideration.

Mr. C. W. Gwynne (Home Department: Nominated Official): Sir, I beg to move the amendment that stands in my name:

"That the Bill be referred to a Select Committee consisting of the Honourable the Home Member, the Honourable the Law Member, Rai Sahib Harbilas Sarda, Munshi Iswar Saran, and Maulvi Muhammad Yaqub and that the number of Members whose presence shall be necessary to constitute a meeting of the Select Committee shall be three."

I have only to say, in explanation of that amendment, that the attitude of Government is very friendly, that they accept the principle of the Bill and that the principle of the Bill has been accepted by the local authorities of Ajmer. But we are advised that there are a number of technical drafting errors in the Bill which have to be set right and that the best and most appropriate place in which that can be done is in Select Committee.

Mr. President: I think the Honourable the Mover has no objection?

Rai Sahib Harbilas Sarda: I have no objection, Sir, since Government accept the principle of the Bill.

Mr. President: The question is:

"That the Bill further to amend the Court-Fees Act, 1870, for a certain purpose, be referred to a Select Committee consisting of the Honourable the Home Member, the Honourable the Law Member, Rai Sahib Harbilas Sarda, Munshi Iswar Saran and Maulvi Muhammad Yaqub, and that the number of Members whose presence shall be necessary to constitute a meeting of the Select Committee shall be three."

The motion was adopted.

The Assembly then adjourned for Lunch till Ten Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Ten Minutes to Three of the Clock, Mr. President in the Chair.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code be circulated for the purpose of eliciting opinions thereon."

Sir, I have summarised my views in the Statement of Objects and Reasons and I will read it:

"Man-made laws have at times been extremely harsh on women folk. A woman often suffers special obloquy and even gets outcasted if she becomes a mother through free love while in unmarried or widowed state. To save herself from social ostracism often she has recourse to exposure of the child of the illicit love on the roadside. At times the poor mother has not the wherewithal to support the child and social ostracism forces her to abandon the child. The law—man-made law it is in every case—provides for exemplary punishment to the unfortunate woman, but the real culprit—the man who seduced and abandoned the helpless girl and the innocent child in their deplorable state, goes unpunished. The present Bill, if passed into law, will hold the putative father equally guilty for the murder of the innocent child, and he shall be liable to receive equal punishment with the mother. Incidentally such a deterrent law will minimise seduction of helpless widows and maidens, and illicit love will be a forbidden fruit."

Sir, I seek to amend section 317 of the Indian Penal Code. At the outset I will ask all the legal luminaries who are Members of this House not to find fault with my knowledge of law. I am not a lawyer and if there are any defects in the Bill, I seek their help to set it right and to safeguard the interests of the illegitimate child and also the unfortunate mother. I want their help and constructive criticism. I will make only a few observations. I may say that up till now all the laws that have been made in any country in the world are made by man, and man being selfish and dominating has always allowed the woman to suffer and we find the woman always suffers. She suffers being the mother of the man, she suffers being the wife of the man and she also suffers at times when she is utterly helpless and man-made laws give her no chance of redress. There are few countries in the world where the woman had a chance to make any laws. It may be so in the Malabar territory where there is the *Maramakathyam* system, where the woman has her social rights and status. She prevailed there from time immemorial to exact woman's rights. It might have been so in other countries in the old days. I read of the country of Amazons that Ulysses visited during his travels. I do not know whether there was any woman's Government existing when Ulysses made his entrance after the Trojan war to the island of these amazons. But as a country advances more and more in civilisation, civilisation in its higher essence always tries to conceal the fault of man and society. I want that the woman should not suffer any more. In this case the woman is punished and the man who seduces her, who leads her astray, goes unpunished. I think he should be equally punished. My friend, Dr. Moonje, asks me how do I know that the woman does not seduce the man. I will take only our social conventions, the Indian social environment. I know that in India such are the structure and environments of our social life that the woman gets little chance to seduce the man. Those who are accustomed to the

country life like myself, and Honourable Members opposite who have held administrative charges of districts know how men who have power in the villages at times wield and abuse their power, and seduce unfortunate women and maidens, and then when any untoward incident happens, the woman is left to her own resources. Such is the custom in India, and if the woman conceives a child without being legally married to a man, that man abandons her and at times she is ostracised, forcing her to drift to the town where she leads the life of a prostitute. What a shame it is on our civilisation and society! Sir, I know in India there are places where steps are being taken to protect such women. There is one *Anatha Asram* in Benares and there is one at Cuttack, my own place, there is one at Nagpore too, where such unfortunate women are allowed to be sheltered and get relief and aid. No question is asked. Their children are looked after, and then, after some time, they return to their own families. Sometimes these women belong to well-to-do families. Thus innocent lives are saved and yet the mother is allowed to remain in the pale of her society. But as long as man is man with his lust and wickedness, man will always run after woman. Section 317 of the Penal Code provides punishment for a father or mother who exposes a child or kills a child. But as far as my investigation goes—I am subject to correction by my lawyer friends of this House—no section of the Penal Code provides punishment for the father of an illegitimate child, and my idea is to provide deterrent punishment in such cases.

S. M. I therefore have put in the motion that the Bill be circulated for the purpose of eliciting public opinion. I hope that opinions will be collected not only from administrators, but from social reformers, purists, justices, legal luminaries, and persons in the highest positions in social life. With these remarks, Sir, I commend my Bill to the House.

Mr. C. W. Gwynne (Home Department: Nominated Official): Sir, I rise to state clearly at the outset on behalf of Government that they must oppose the motion moved by my Honourable friend Mr. Das that his Bill to amend the Indian Penal Code be circulated for opinions. Having said that, may I now pay my tribute to the earnestness, the sincerity, and the chivalry of the Honourable the Mover in his championship of those unfortunate women who expose or cause to be exposed their illegitimate children? I am sure the House and all right-thinking people will agree with the Honourable the Mover in his righteous indignation on the subject of the moral depravity of certain men. But, Sir, the cause is not to be found, as the Honourable the Mover has described in his Statement of Objects and Reasons, in any man-made law or in any man-made institution. It is a question of human nature itself, and a mere amendment of the law will not provide any adequate remedy. I find no fault with the Honourable the Mover's knowledge of law, but rather with the principle on which he would proceed. While I appreciate his sincerity and optimism, I can find no basis in reason for the propositions he has put forward, and for that reason it is necessary to oppose even the circulation of this Bill for opinions, because it is open to very serious objections, patent on the face of it, with the result that circulation would serve no useful purpose. The Bill proceeds on the assumption that a man, by seducing a woman, causes her, if she has an illegitimate child, to commit an offence under section 317 of the Indian Penal Code or a similar offence, and that therefore the man is really more culpable than the woman. But the circumstances with which the Bill is concerned is the exposure of a child and

[Mr. C. W. Gwynne.]

not victimisation of the women. Such victimisation, though on moral grounds worthy of the sternest condemnation, is not in itself and cannot very easily be made a criminal offence. I would ask the House and the Honourable the Mover also to examine the existing law on the subject and to say in what way it is defective. If the father himself can be proved to have played any part in the exposure of his illegitimate child with intent to kill the child, the law can deal with him already as section 817 applies both to the father and to the mother. If death results from such intentional exposure, the law relating to culpable homicide and murder applies; and the father who instigates such exposure, which leads to the death of the child, can be punished for abetment of the offence of murder and the punishment in that case may be death or transportation for life. The result of the Honourable Member's proposal, though his main object is to make the unprincipled father suffer, might be to let him off in these very circumstances with a sentence of seven years imprisonment only. The law, as it stands, seems to me preferable to that proposed by the Honourable Member.

Now let me take the case where the father plays no part in the exposure of the child. My Honourable friend would punish him for abetment of an offence under section 317, but if the father plays no part in the exposure, why should he be punished for abetting an offence with which he had nothing to do? His moral delinquency, wicked and callous though it is, is not a criminal offence and cannot be made one. But, Sir, the principle which is most open to objection is that which the Honourable the Mover advocates where paternity is not admitted by the father but is suspected. My Honourable friend would establish a presumption of guilt against him—a presumption which is contrary to our most cherished principle of jurisprudence that a man should be held innocent until he is proved to be guilty. My friend Mr. Das would make the putative father guilty until he has proved his innocence. He has anticipated the objection that it is impossible to know in all cases whether the putative father is the real father. There may be several putative fathers; and it is moreover a large assumption that the woman is in all cases blameless. Is it fair to make such an absolute presumption? Is it not better to insist on the woman being made to give material corroboration of her statement that a particular man is the father of his illegitimate child? That is the practice followed in the English courts in the matter of applications for maintenance.

Mr. B. Das: The social customs in India are different.

Mr. C. W. Gwynne: I am not talking about social customs; I am talking about criminal offences. The Bill, Sir, might lead to injustice in that it might result in baseless charges being brought against an innocent person by an unscrupulous woman and in such circumstances it would inevitably encourage blackmail. Naturally, Sir, the sympathy of all right-thinking people goes out to all genuine victims, and particularly to those victims who in the last extremity of despair may expose their children and are perhaps charged with murder. But the remedy is not to be found in legislation of this kind. This attempt to make unprincipled men suffer for their moral delinquencies will not in any way ameliorate the lot of the victims who are the real sufferers. Stripped of sentiment, what does this Bill mean? It might provide a lesser punishment for a serious offence; it might cause a man to be punished for an offence in which he has played

no part; it establishes a presumption of guilt against innocent persons. I therefore hope the House will agree that there are fundamental objections of principle against the Bill; that no useful purpose will be served by circulating it; and that the House will reject it forthwith.

Mr. B. Das: Sir, it is my misfortune that, after the sympathy and congratulations which I received two days ago in respect of the Imperial Bank Bill and this particular Bill, I have got no further support from the official side. I may say that this Bill received the full approval of the Women's Council of India two or three years ago when I first circulated it through the Press. I appreciate the criticisms of the Honourable Mr. Gwynne from the legal point of view, and his criticisms may be supported by other Honourable Members who happen to be lawyers. But I say on the floor of this House that there are evils in our society and in our civilisation. I wanted to protect helpless women; if it is the opinion of this House that helpless women should not be protected and should be exploited, then I am helpless. But there is a higher thing than expediency; there is that ennobling thing "humanity", and in the name of humanity I appeal to the Members of the House and ask them in the name of the women of India whether at least this Bill should not be circulated for eliciting opinions. In the name of humanity I appeal to the Members of this House to see at least whether this Bill cannot be circulated to the public and to the various Provincial Governments and Administrations in order that we may know what they think of it and also to know what the women, who constitute half the population of India, think of it. Thereafter the Government can oppose it at every stage if they wish to and the Bill could be amended or thrown out, or the Government could bring in a new Bill which could meet the exigencies of the situation. But to oppose this Bill at this stage is, I think, rather unkind to me and unkind to half the population of India who are women. I say again that women have always been wrongly treated by men. That is the view I take. With women there is no caste, there is no creed bar one, that they always suffer—they suffer from man and for man.

Mr. President: The question is:

"That the Bill further to amend the Indian Penal Code be circulated for the purpose of eliciting opinions thereon."

The motion was negatived.

THE INDIAN ELECTRICITY (AMENDMENT) BILL.

Mr. President: Is this motion going to be opposed also?

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour): Yes, Sir.

Mr. President: Does the Honourable Member (Mr. B. Das) wish to move it?

Mr. B. Das (Orissa Division: Non-Muhammadan): I understood from a private conversation with the Honourable Member that he appreciates. . .

Mr. President: Private conversations are not relevant. Government are going to oppose his motion; does the Honourable Member wish to move it?

Mr. B. Das: I will move it, Sir. I beg to move:

"That the Bill further to amend the Indian Electricity Act, 1910, for certain purposes, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Sir Bhupendra Nath Mitra, Mr. E. F. Sykes, Mr. Sarabhai N. Haji, Mr. Anwar-ul-Azim, Mr. Fazal Ibrahim Rahimtulla, Mr. K. C. Neogy and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This is not really an amendment of the Electricity Act. I wish to amend section 37 of that Act, sub-section (2) (b), by adding the words "in any newspaper published in the area of supply, or in absence of the same, in a newspaper published in the province" after the words already existing there "regulate the publication of notices". I have given the reason in the Statement of Objects and Reasons attached to the Bill. What happens now? The Indian Electricity Act of 1910 was passed long ago. In 1920, Mr. J. W. Meares the former Electrical Adviser to Government of India compiled a set of rules which are standing rules of practice among electrical engineers all over India. These rules are followed in all the electrification schemes all over India and all electrical engineers follow them. When anybody intends to electrify a town, he has to apply for a Government licence from the Local Government. The Indian Electricity Act and the Rules are at present a Central subject under the Central Government. Each Provincial Government has got an Electrical Inspector and the Department is a reserved subject; so if we have to amend the Act, we have to come to the Government of India. Now, in certain provinces there is a semblance of provincial autonomy; sooner or later every province will have provincial autonomy. The Rules at present require the applicant for an electric licence to advertise the same in three consecutive issues of a paper approved by the Government. Sometimes the Secretary to the Government or the Electrical Inspector gives a hint that the advertisement should be inserted in a Bombay or Calcutta newspaper, though it may happen that that daily paper is not read at all by the people of the town affected—it may be that only a few people read an English edited paper from Calcutta or Bombay. So it would be in the best interests of the local authorities and of the townspeople, who are going to be affected by the application of that electric licence, that the licence should be published in a paper published in that town or in that province. It is a very simple amendment that I seek to make. Of course I cannot ask the House to amend the rules, so I have sought to amend section 37 (2) (b) in order to enable the Government to make the necessary amendments in the Act and in the Rules.

I may make one further observation. Although the Government of India are in charge of the Electricity Act, they have had no electrical adviser since they did away with the post of Mr. J. W. Meares. Neither, since his departure, have they held any conference of the different Electrical Inspectors of the various provinces to see if the Rules require any change or any alteration. During the last ten years all over India the electrical engineering industries have gone up by rapid strides; and there have been various hydro-electric developments, and even the smallest town is being electrified to-day. What has been done by the Board of Trade in England may not be quite suitable to the Indian atmosphere; and if the Honourable Member for Industries and Labour holds a conference of Electrical Inspectors of the various Governments, he can find

enough material and cases which would suggest the necessity for modification of some of these rules in order to suit changed conditions. With these observations I move my motion.

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour): Sir, I am sorry that I cannot congratulate my friend, Mr. B. Das, on the success of his excursion on the present occasion into the field of legislation from the field of engineering. When I read this Bill and the Statement of Objects and Reasons, I failed to realise what principle my Honourable friend wanted to establish, or what was the precise reason underlying this Bill which he wants this House to enact. After I have listened to him, I think the position has somewhat clarified itself to me. What my Honourable friend really wants is a modification of the Electricity Rules and not a modification of the Act. If that is his real desire, the simplest course for him would have been to address my Department on the subject, suggesting for their consideration certain amendments to the Electricity Rules, and I can assure him that any such suggestion coming from him, or from any other responsible quarter, would have received due consideration from my Department.

My Honourable friend was not correct in stating that the Government of India, after the departure of Mr. Meares, lacks a qualified electrical adviser. We have got qualified electrical advisers employed in the Indian Stores Department: The head of that Department is a well-known expert in matters connected with electricity.

He then said that we have held no conference of Electrical Inspectors from the provinces for ten years. Well, Sir, I cannot vouch for ten years; but to the best of my recollection, we had a conference only last year where they discussed possible alterations in the Electricity Rules, which I believe are still receiving further consideration.

Now, Sir, I do not quite understand why my Honourable friend considers this particular amendment of law to be necessary. He has said that the Electrical Inspector in the Provinces or the Secretary in the Public Works Department who, I believe, works in a transferred Department in most provinces forces somebody to put his application or rather gives notice of his application in a certain paper. Now, Sir, Rule 18(3) of the Electricity Rules runs as follows:

"The advertisement shall be inserted by the applicant in at least three successive issues of the same newspaper published or circulated in the proposed area of supply."

So far as that part goes, there is no interference from anybody. Then the rest of the rule reads as follows:

"or any such newspaper as the Local Government may approve."

When I read the Statement of Objects and Reasons, I thought my Honourable friend particularly liked the last portion of it, because he was in favour of provincial autonomy.

Now, as I understand the matter, the person who applies for the licence is likely to insert his advertisement in the paper which has the greatest circulation in a particular area; and it seems to me that it would not be in the public interest to prescribe that notice of the application should be advertised only in newspapers published in the area of supply, or in the absence of the same, in a newspaper published in the province. I would

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give a concrete example. Take the *Hindustan Times* of Delhi. I understand it has a wide circulation in neighbouring tracts which lie in the Punjab and the United Provinces. Now, shall we by legislation stop the advertisement of notices of licences affecting, say a town lying in the neighbourhood of Delhi, in the *Hindustan Times* and insist on its publication in a paper which is published say in Lahore or Aliahabad? I think my Honourable friend's real difficulty is that he does not want stress to be put in Rule 13 (3) of the Indian Electricity Rules on the words "or circulated", and that is brought out in one of the paragraphs in his Statement of Objects and Reasons. If that is so, I can give him this assurance. I shall get my Department to address the Local Governments and inquire whether the omission of those words from the Electricity Rules is likely to lead to any objection from the point of view of the public. If there is no such objection, I will follow the procedure provided for in section 38 of the Electricity Act and have the rule amended to that extent. Well, that is the most help I can give to my Honourable friend, and I hope with that assurance he will be kind enough to withdraw his Bill. If not, I shall be under the painful necessity of opposing it.

Mr. B. Das: Sir, I am obliged to the Honourable Member for the assurance he has given me, and with that assurance, as the purpose of my Bill is served, with your permission I would like to withdraw the Bill. I would, however, like to make one or two observations. I know the Honourable Member has got Mr. Pitkeathly as the head of the Indian Stores Department to manage the Indian Stores Department and also to purchase stores, but I never knew that Mr. Pitkeathly administered the Indian Electricity Act on behalf of the Government of India or built case-law regarding the Indian Electricity Act. I thought that the Indian Stores Department had nothing to do with the administration of the Indian Electricity Act.

The Honourable Sir Bhupendra Nath Mitra: I think, Sir, I must correct one misapprehension on the part of my Honourable friend. I did not say that Mr. Pitkeathly administers the Electricity law on behalf of the Government of India. All I said was that in him the Government of India possesses an electrical expert.

Mr. President: The question is:

"That leave be given to Mr. B. Das to withdraw his Bill."

The Bill was, by leave of the Assembly, withdrawn.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

Mr. M. S. Aney (Berar Representative): Sir, I move for leave to introduce a Bill further to amend the Indian Railways Act, 1890. My reasons for the Bill are stated in the Statement of Objects and Reasons, and so I do not want to take further time of the House by making a speech.

Mr. President: The question is:

"That leave be given to Mr. Aney to introduce a Bill further to amend the Indian Railways Act, 1890."

The motion was adopted.

Mr. M. S. Aney: Sir, I introduce the Bill.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. M. S. Aney (Berar Representative): Sir, I move for leave to introduce a Bill to provide for treating offenders under the Child Marriage Restraint Act, 1928, as first offenders and enlarging the scope of the discretionary powers under section 562 of the Code of Criminal Procedure, 1898. I have given my grounds in the Statement of Objects and Reasons, and I believe Honourable Members have read them. I therefore ask for leave to introduce this Bill without making any further speech.

Mr. President: The question is:

"That leave be given to Mr. Aney to move for leave to introduce a Bill to provide for treating offenders under the Child Marriage Restraint Act, 1928, as first offenders and enlarging the scope of the discretionary powers under section 562 of the Code of Criminal Procedure, 1898."

The motion was adopted.

Mr. M. S. Aney: Sir, I introduce the Bill.

THE INDIAN RELIGIOUS PICTURES TRADE MARKS (PREVENTION) BILL.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I beg to move for leave to introduce a Bill to penalise the use of pictures of gods and goddesses, scenes from scriptures or mythology of any religion whatsoever as marks or trade marks on any article imported to or manufactured in India. Sir, I have stated my reasons for this Bill in the Statement of Objects and Reasons, and so I don't think it is necessary for me to make a speech.

Mr. President: The question is:

"That leave be given to Mr. Das to introduce a Bill to penalise the use of pictures of gods and goddesses, scenes from scriptures or mythology of any religion whatsoever as marks or trade marks on any article imported to or manufactured in India."

The motion was adopted.

Mr. B. Das: Sir, I introduce the Bill.

Mr. President: Honourable Members will no doubt recollect that they have been summoned to be present here on Saturday, the 25th, at 11 O'Clock, when His Excellency the Viceroy will address them.

The Assembly then adjourned till Eleven of the Clock on Monday, the 27th January, 1930.