

29th September 1936

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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*(29th September to 8th October, 1936)*

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FOURTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,  
1936



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1937

# Legislative Assembly.

*President :*

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I., KT.

*Deputy President :*

MR. AKHIL CHANDRA DUTTA, M.L.A.

*Panel of Chairmen :*

MR. S. SATYAMURTI M.L.A.

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

MR. ABDUL MATIN CHAUDHURY, M.L.A.

MR. M. S. ANEY, M.L.A.

*Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

*Assistant of the Secretary :*

RAI BAHADUR D. DUTT.

*Marshal :*

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

*Committee on Petitions :*

MR. AKHIL CHANDRA DUTTA, M.L.A., *Chairman.*

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

PANDIT NILAKANTHA DAS, M.L.A.

MAULVI SYED MUETUZA SAHIB BAHADUR, M.L.A.

MR. N. M. JOSHI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Tuesday, 29th September, 1936.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

## QUESTIONS AND ANSWERS.

### ALLEGED BRUTAL TREATMENT OF INDIANS IN MANCHURIA BY THE JAPANESE AUTHORITIES.

679. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a case of brutal treatment of Indians in Manchuria by the Japanese authorities reported in the newspapers ;
- (b) whether it is a fact that an Indian merchant and his family were arrested at Hsinking on June 17th by the Japanese authorities and were brutally ill-treated ;
- (c) what the actual facts are ;
- (d) whether it is a fact that an Indian merchant was subjected to water torture and savagely beaten, and his wife was beaten across the breasts ; and
- (e) whether the case was brought to the attention of the Japanese Government at the beginning of July by the British Ambassador in Tokyo, and what the latest information on the matter is ?

**Sir Aubrey Metcalfe :** The Honourable Member's attention is invited to the answers given by me on the 24th September, to Mr. M. Ananthasayanam Ayyangar's question No. 599 and to supplementary questions asked on that occasion.

**Mr. S. Satyamurti :** With reference to the answer to clause (e) of this question, which was also answered I know, may I know whether Government have any latest information on this matter ; whether they have pursued the matter, after the report by the British representative there, and whether they have any further information ?

**Sir Aubrey Metcalfe :** No, there is no further information. There is nothing really more to be said about it. As I explained, the Japanese Government said that they held a full inquiry into the matter which satisfied them that the charges of torture were unfounded, and that ended the matter. The people were never prosecuted as I explained before.

( 1987 )

**Mr. S. Satyamurti :** Was any inquiry made from the actual persons, that is the Indian merchant and his wife, by the British Consul or by the Japanese authorities ?

**Sir Aubrey Metcalfe :** Certainly yes, they were interviewed by the Consul and very careful inquiries were made at the moment from them, but it was unfortunate that it was quite a week or ten days after the alleged incidents had occurred, and medical examination failed to prove the actual facts alleged by the people.

**Mr. S. Satyamurti :** Did the inquiry show that the Indian merchant and his wife did actually complain of this ill-treatment ?

**Sir Aubrey Metcalfe :** Certainly they complained, but it was impossible to substantiate their statement by independent evidence because the time that had elapsed had left no marks which could be identified by medical examination.

**Mr. S. Satyamurti :** Was any opportunity given to the Indian merchant and his wife to adduce any evidence, apart from medical evidence, of this ill-treatment ?

**Sir Aubrey Metcalfe :** Opportunity ? Yes, but it is obvious that no independent evidence could be adduced, because the incident alleged to have happened took place when they were in the hands of the Japanese police.

**Mr. S. Satyamurti :** Are the Government satisfied now on the report of the British Consul, that these two were actually lying or giving false evidence, and there was nothing to justify their report or complaint of ill-treatment, at the hands of the Japanese authorities ?

**Sir Aubrey Metcalfe :** I would hardly go so far as to say that. It was conflicting evidence. These people stated one thing, and the Japanese Government stated that they had held an inquiry and come to a different conclusion. It is impossible to reconcile two directly opposite stories when there is no independent evidence available.

**Mr. S. Satyamurti :** Are the Government satisfied that adequate steps are being, or have been taken to prevent such incidents in future ?

**Sir Aubrey Metcalfe :** Certainly ! So far as any steps could be taken. A very strong diplomatic protest was made ; the matter was raised, as Honourable Members may have seen in the papers, in the House of Commons, and His Majesty's Government said that they had taken all possible steps to prevent a recurrence of such an affair.

**Mr. K. Ahmed :** Will not the position be improved when Indian Trade Commissioners are appointed in Japan, because they can then look after the interests of Indian merchants residing in Japan ?

**Sir Aubrey Metcalfe :** The Trade Commissioners have neither any diplomatic nor any consular function. The Consular functions are performed by His Majesty's Consuls who can deal with such situation adequately.

**METAL SLEEPERS DESIGNED IN THE CENTRAL STANDARDS OFFICE OF THE RAILWAY BOARD.**

680. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether new types of metal sleepers have been designed in the Central Standards Office of the Railway Board and are being tried extensively on the East Indian, North Western, and other Railways ;
- (b) whether these sleepers are manufactured in India or are imported ; and
- (c) what the cost will be of using extensively these metal sleepers, and whether they propose to consider the cost and the need for encouraging Indian industry, before deciding this question ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) The reply is in the affirmative.

(b) The sleepers and all fittings are manufactured in India.

(c) The annual cost of metal sleepers is considerably less than wooden sleepers. As metal sleepers are manufactured in India from raw materials produced in India their use is a source of encouragement to Indian industry.

**Mr. S. Satyamurti** : What is the relative age of these sleepers, wooden *versus* steel ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am afraid I could not answer that exactly without notice, but I should imagine that steel sleepers are very much more durable.

**Mr. S. Satyamurti** : May I take it, therefore, that the Government, in coming to the conclusion that the use of these metal sleepers will on the whole result in savings, have taken the relative ages of these two types of sleepers into consideration ?

**The Honourable Sir Muhammad Zafrullah Khan** : Yes, Sir.

†681\*.

†682\*.

**RENEWAL OF THE INDO-JAPANESE TRADE AGREEMENT.**

683. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " Poor Oysters ", published in the *Bombay Sentinel* of the 17th of July, 1936 ;
- (b) whether it is a fact that the contents of the memorandum of the non-official delegation and the Indo-Japanese Contract were kept strictly confidential from the press but the *Times of India* correspondent was able to get a copy ;

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†This question was withdrawn by the questioner.

- (c) whether any distinction was made by them between one press and another and, if so, why ; and
- (d) whether in dealing with the representation of Japan for renewal of Indo-Japanese Pact the interest not only of the Indian mills but also of the people of India generally will be kept in mind ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (d). Yes Sir.

(b) Government have published no information beyond what is contained in the Press Communiqués issued by them from time to time.

(c) Does not arise.

**Mr. S. Satyamurti :** Has the attention of the Government been drawn to the statement in clause (b) of the question, that the *Times of India*, correspondent was able to get a copy, and publish the contents of this memorandum ?

**The Honourable Sir Muhammad Zafrullah Khan :** That may be correct.

**Mr. S. Satyamurti :** May I know whether the Government have investigated how copies of confidential documents were made available to the correspondent of the *Times of India* ?

**The Honourable Sir Muhammad Zafrullah Khan :** It was not necessary for Government to make any inquiry into the matter. Government are quite satisfied that it was not their copy that was communicated to the press ; after all, when a communication is addressed to the Government, and also appears in the press, and Government are quite sure that there has been no leakage on their side, the inference is obvious.

**Mr. S. Satyamurti :** With reference to clause (d) of the question, may I know whether the Government have kept in view particularly the interests of the handloom weavers ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already said on several occasions that Government are keeping all these matters in mind.

**Mr. S. Satyamurti :** Are they considering the interests of the growers of cotton particularly ?

**The Honourable Sir Muhammad Zafrullah Khan :** Most certainly.

#### CONTRACT FOR THE CONSTRUCTION OF THE HOWRAH BRIDGE.

684. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled " London gets Howrah " in the *Amrita Bazar Patrika* of the 11th of July, 1936 ;
- (b) whether their attention has been drawn to the statement of Mr. Walchand Hirachand to the Associated Special Service at Simla on the 11th of July published in the *Hindu* of the 12th ;



- (c) whether the Bengal Government have approved of the Bridge Commissioner's decision that the new Howrah Bridge should be constructed by Cleveland Bridge and Engineering Company ;
- (d) whether the Government of India were consulted in the matter and whether they replied agreeing with the decision of the Government of Bengal and, if so, why ;
- (e) whether the Government of Bengal had power to accept or reject the resolution of the Port Commissioners ;
- (f) whether the Government of Bengal, or the Government of India through them received a representation from the Indian Combine setting out their claims and the need for the contract being retained in India, and the reasons why the cheapest tender was rejected ;
- (g) whether the higher cost of the tender of the Indian Combine was not due to the desire of the Indian Combine to make the special structure impregnable against the ravages of the Hooghly ; and
- (h) whether the European Commissioner resisted the attempt to induce the Indian Combine to scale down their estimates to a round figure of Rs. 220 lakhs on the plea of sanctity of tenders, and whether the Government of India are prepared to take any steps to secure the contract for Indians ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (b). Yes, Sir.

(c) to (f). I would refer the Honourable Member to the answer given by me on the 11th September to Mr. T. S. Avinashilingam Chettiar's question No. 585.

(g) and (h). Government have no information.

**Mr. S. Satyamurti :** With reference to the answer to clause (d) of the question, if an answer has been given, I forget what it is, and with apologies, I should like to ask again whether the Government of India were consulted in the matter and did they reply agreeing with the decision of the Government of Bengal in this matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir, there was no question of either agreement or disagreement. The proposed decision of the Bengal Government was conveyed to the Government of India for information.

**Mr. S. Satyamurti :** May I take it, Sir, that the Government of India did not communicate their decision by means of any reply to the Government of Bengal on this matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, they only acknowledged the communication.

**Mr. S. Satyamurti :** Was it a mere acknowledgment or was there any expression of approval, disapproval, or modified approval ?

**The Honourable Sir Muhammad Zafrullah Khan :** There was no expression of approval, disapproval or modified approval.

**Mr. S. Satyamurti :** May I know when this information was conveyed to the Government of India ? Was it before the Government of Bengal had accepted it, or after ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have not the papers before me, but I believe it was just before they communicated their decision to the Bridge Commissioners.

**Mr. S. Satyamurti :** May I know why the Government of India did not ask the Government of Bengal to consider the strong feeling in this matter both in this House and elsewhere, that, if possible, the contract should go to an Indian combine, and not to a foreign concern ?

**The Honourable Sir Muhammad Zafrullah Khan :** As I have assured the House, the Government of Bengal were aware of this feeling themselves.

**Mr. S. Satyamurti :** With regard to the answers to clauses (g) and (h) of the question, may I know whether the Government have made any inquiry into the matter, and have not got any information, or they have made no inquiry at all ?

**The Honourable Sir Muhammad Zafrullah Khan :** No inquiry has been made.

**Mr. S. Satyamurti :** May I know why, since this question was raised, Government did not care to make any inquiries on these two important matters which are relevant to the question raised in these two clauses ?

**The Honourable Sir Muhammad Zafrullah Khan :** For the reason that as the matter comes under section 5 of the Howrah Bridge Act it was within the competence of the Local Government, the decision had already been come to and given effect to, and any inquiries made and any information obtained thereafter by the Government of India would have made no difference in the situation.

#### TERRORIST SITUATION IN INDIA.

685. **\*Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons on the 20th of July and the statement of Mr. R. A. Butler that the terrorist situation has improved but still demands the vigilance of the police ;
- (b) whether, in view of the improved situation, they propose to release all detenus ; and
- (c) whether they propose to take steps to repeal the repressive laws now in force in Bengal ?

**The Honourable Sir Henry Craik :** (a) Yes.

(b) and (c). No.

**Mr. S. Satyamurti :** May I take it, with reference to the answer to clause (b) of the question, that the Government of India agree with Mr. Butler, the Under-Secretary of State, that there is an improvement in the situation ?

**The Honourable Sir Henry Craik :** Yes.

**Mr. S. Satyamurti :** May I know then the reasons why the Government do not propose to quicken the pace of the release of the detenus or consider the question of releasing all of them at a suitable time ?

**The Honourable Sir Henry Craik :** I think the pace is being quickened. There is no question of release of all of them at present ; the situation has not sufficiently improved for that.

**Mr. S. Satyamurti :** May I ask how many detenus were released in the course of the last year ?

**The Honourable Sir Henry Craik :** I have not got the figures for last year, but since the beginning of the present year I think two hundred and twenty-five.

**Mr. S. Satyamurti :** May I ask how many detenus are still confined, deducting all those who have been released since the new scheme mentioned by the Honourable the Home Member ?

**The Honourable Sir Henry Craik :** The number in jails is at present 453 in the two detention camps at Berhampore, 450 at Deoli, 316 at Hijli, and three in jails outside Bengal. That makes a little over 1,200.

**Pandit Lakshmi Kanta Maitra :** Is it not a fact that out of these 225 detenus who are said to have been released this year, most of them have been conditionally released and some of them have been home-interned ?

**The Honourable Sir Henry Craik :** Yes, a certain number has been conditionally released, some unconditionally, and some have been home-domiciled.

**Pandit Lakshmi Kanta Maitra :** Is the Honourable Member in a position to tell us what is the percentage of people who have been unconditionally released ?

**The Honourable Sir Henry Craik :** No, I must have notice.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether in view of the improvement in the situation, they expect the release of all the detenus in any number of years in the future ?

**The Honourable Sir Henry Craik :** I cannot say. If the improvement continues, I hope it will be possible to speed up releases considerably.

**Pandit Lakshmi Kanta Maitra :** Is it not a fact that along with the releases the Government are carrying on the policy of internment of other people month by month ?

**The Honourable Sir Henry Craik :** A certain number are being interned, but that is a matter for the Government of Bengal. So far as I know, the number of releases is exceeding the number of fresh internments by a good deal.

**Mr. S. Satyamurti :** With regard to clause (c) of the question, may I know if Government are examining the working of and the need for these repressive laws, since the improvement in the situation mentioned in clauses (a) and (b) of the question ?

**The Honourable Sir Henry Craik :** The question of the working of the repressive laws is constantly under consideration.

**Mr. S. Satyamurti :** May I know if Government have come to the conclusion that all these repressive laws in their present form are absolutely necessary, in spite of this improvement in the situation ?

**The Honourable Sir Henry Craik :** Yes, for the present they are.

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question.

**EXTERMENT ORDER ON ONE MR. RATNA PRAKASH, A MEMBER OF THE DELHI PROVINCIAL CONGRESS COMMITTEE.**

686. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether it is a fact that Mr. Ratna Prakash, a member of the Delhi Provincial Congress Committee and a prominent youth worker of Delhi, was served with an externment order on the 20th of July at the Delhi railway station ;
- (b) whether the order required him to leave Delhi within 24 hours, and not to return to it for a year ;
- (c) whether Mr. Ratna Prakash came to Delhi to attend the Provincial Congress Committee meeting and returned to Meerut the same evening ; and
- (d) the reasons for such action ?

**The Honourable Sir Henry Craik :** (a) He was served with an externment order on the 19th July.

(b) Yes.

(c) The reason for his visiting Delhi is not known. The externment order was dated July the 10th and was served on him the next occasion he entered the Delhi Province, namely July 19th. He was ordered to remove himself within 24 hours and he left Delhi the same evening.

(d) I would invite the attention of the Honourable Member to the reply I gave to Mr. Asaf Ali's starred question No. 621, dated the 25th September, 1936.

**Mr. S. Satyamurti :** Did the Government consider the question of taking any action against him in courts of law ?

**The Honourable Sir Henry Craik :** I am not certain about that ; I must have notice.

**Mr. S. Satyamurti :** May I know if Government, before passing such orders, explore the possibility of prosecuting the persons in courts of law and giving them a chance of establishing their innocence or not ?

**The Honourable Sir Henry Craik :** That is almost invariably done.

**Mr. S. Satyamurti :** May I ask why it was not done in this case ?

**The Honourable Sir Henry Craik :** There again, as I say, I must have notice.

**Pandit Lakshmi Kanta Maitra :** May I ask whether, in passing these externment orders, Government take into consideration the fact that the persons so externed may have some stake in the place and may have their own place of business and trade there and are very seriously affected if they are externed by such executive order ?

**The Honourable Sir Henry Craik :** That is taken into consideration. The person referred to in this question does not live in Delhi but lives in Meerut.

**Mr. Mohan Lal Saksena :** Is it not a fact that in Meerut itself no restrictive orders have been imposed on Mr. Ratan Prakash Gupta ?

**The Honourable Sir Henry Craik :** That is very likely ; the special Act under which these orders have been passed does not, so far as I know, apply in Meerut.

**Mr. Mohan Lal Saksena :** Was this externment order served on him upon information received from Meerut or upon information supplied by the Delhi C. I. D. ?

**The Honourable Sir Henry Craik :** The Honourable Member cannot expect me to disclose the information on which this order was passed.

RELEASE OF PERSONS DETAINED WITHOUT TRIALS IN JAILS.

687. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons on the 20th of July suggesting that Mr. Butler should consult the Government of India, with a view to securing the review of cases of persons imprisoned for political offences, so that, wherever compatible with the prevention of violence, an amnesty could be granted before the Coronation, and Mr. Butler's reply that there were only four civil disobedience movement prisoners in Jail ;
- (b) whether they propose to bring to the notice of the Secretary of State that besides these four civil disobedience movement prisoners, there are still hundreds in jail who were not tried or convicted but who are detained by executive order ; and
- (c) whether they propose to consider the question of their release as early as possible ?

**The Honourable Sir Henry Craik :** (a). Yes.

(b) No. The Secretary of State is aware of the position.

(c) Cases of those detained without trial are reviewed periodically with a view to determine whether it is in the public interest to release them.

**Mr. S. Satyamurti :** May I know how the Secretary of State is kept informed from time to time, about the persons who are detained in jail, but who are not tried or convicted and merely detained by executive order ?

**The Honourable Sir Henry Craik :** Constant reports are sent to the Secretary of State on this subject by the Government of India.

**Mr. S. Satyamurti :** How often ?

**The Honourable Sir Henry Craik :** Certainly once a fortnight and possibly oftener.

**Mr. S. Satyamurti :** Do these reports contain the names of these persons and the reasons why they are kept detained in jail without trial ?

**The Honourable Sir Henry Craik :** Not the names, but the numbers.

**Mr. S. Satyamurti :** Are the reasons given ?

**The Honourable Sir Henry Craik :** The Acts under which they are detained are stated ; detailed reasons are not given in each case.

**Mr. S. Satyamurti :** When was this question of release of all these persons who are detained by executive order last considered by the Government of India ?

**The Honourable Sir Henry Craik :** The Honourable Member is under a misapprehension. The majority of those persons are not detained by order of the Government of India but by order of the Government of Bengal.

**Mr. T. S. Avinashilingam Chettiar :** May I know why these four Civil Disobedience Movement prisoners still kept in jail ?

**The Honourable Sir Henry Craik :** I do not think they are ; I think they have been released now.

**Mr. S. Satyamurti :** I am asking, Sir, when the case of these gentlemen kept in jail without trial or conviction was last examined by the Bengal Government.

**The Honourable Sir Henry Craik :** That is a question which ought to be addressed to the Bengal Government.

**Mr. T. S. Avinashilingam Chettiar :** Am I to understand that after the 20th July, these four prisoners were released ?

**The Honourable Sir Henry Craik :** I am not certain about that but if the Honourable Member will put down a question, I will do my best to reply.

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question.

#### APPOINTMENT OF THE CABINET SECRETARY.

688. **Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the total cost of the deputation of Sir Eric Mievill to England in connection with his contemplated appointment, as the future Cabinet Secretary ;
- (b) whether they were asked permission to let him accept another appointment ; and
- (c) whether there is no proposal to appoint a Cabinet Secretary and, if so, why ?

**The Honourable Sir Henry Craik :** (a) I would refer the Honourable Member to the reply which I gave to his starred question No. 417 on the 16th September, 1935.

(b) Yes.

(c) As I have already said in reply to another question, Mr. Spence, Secretary, Legislative Department, is at present doing the work of Secretary to the Executive Council in addition to his own duties.

**Mr. S. Satyamurti :** May I know how long Sir Eric Mieville was on deputation in connection with this training ?

**The Honourable Sir Henry Craik :** Speaking from memory, I think about six weeks.

**Mr. S. Satyamurti :** May I know whether the Government of India have any information about what he was doing there during these six weeks ? Was he jobbing for the Duke of York's Private Secretary's place, or really doing any work at all ?

**The Honourable Sir Henry Craik :** I know from conversation with him after his return that he was working extremely hard ; he was working in the office of the Cabinet Secretariat at home every day.

**Mr. S. Satyamurti :** Have the Government of India received any report from him, on the results of his extremely hard work at the Cabinet Secretariat in England ? (*Voices from the Official Benches :* "That has been answered before".) When was his report submitted ?

**The Honourable Sir Henry Craik :** The report was presented when he returned to India.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether he was sent on deputation at much Government expense only to submit a report, or so that he might have experience of Cabinet work so as to act as Cabinet Secretary here ?

**The Honourable Sir Henry Craik :** He was sent to ascertain and study the system of working of the Cabinet Secretariat in the United Kingdom a year ago and to report to the Government of India.

**Mr. T. S. Avinashilingam Chettiar :** Was it merely for that report only ?

**The Honourable Sir Henry Craik :** I do not understand the Honourable Member's question.

**Mr. T. S. Avinashilingam Chettiar :** Was it merely for getting information about the working of the Cabinet system that he was sent, or in order that he might get experience to do such work here ?

**The Honourable Sir Henry Craik :** Both, obviously.

**Mr. T. S. Avinashilingam Chettiar :** Why then was he given the consent of the Government of India to accept another appointment ?

**The Honourable Sir Henry Craik :** The Government of India were asked to agree to his accepting another appointment and they reluctantly agreed.

**Mr. S. Satyamurti :** Were they asked by His Majesty's Government, or by the Duke of York, or by Sir Eric Mieville ?

**The Honourable Sir Henry Craik :** I do not know.

**Mr. Sri Prakasa :** Are Government satisfied that the knowledge gained by Sir Eric Mieville at such expense has been vicariously injected in Mr. Spence ?

(No answer.)

**Mr. T. S. Avinashilingam Chettiar :** May I know that certain officers of Government are allowed to go to England at Government expense with the object of doing something else ?

**The Honourable Sir Henry Craik :** No, Sir.

**Mr. N. V. Gadgil :** May I know if the expenditure will be recovered from the gentleman concerned ?

(No answer.)

#### PLIGHT OF WEAVERS IN MADRAS.

689. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the report of a speech on "Weavers plight in Madras" published in the *Statesman* of the 25th of July, 1936 ;
- (b) whether they have examined or propose to examine the allegations contained in the speech that, as a result of the new duties recommended by the special Textile Tariff Board and accepted by the Government, the Indian weaver would lose the tiny market he possessed at present ;
- (c) whether they propose to consider the question of giving adequate protection to him ; and
- (d) whether they propose to undertake to examine the possibility of a compartmental system of work between the mills and hand-loom weavers, and, if not, why not ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (b). Yes, Sir. The attention of the Honourable Member is invited to paragraphs 105, 106 and 109 of the Report of the Special Tariff Board, copies of which are in the Library.

(c) The question will come up for review when the present term of protection to the cotton textile industry expires.

(d) I would refer the Honourable Member to the reply given by me on the 27th February, 1936, to a supplementary question by Professor N. G. Ranga in connection with his starred questions Nos. 860 and 861.

**Mr. S. Satyamurti :** With reference to the answer to clause (b) of the question, may I know whether the Government have examined this position independent of the report of the Textile Tariff Board, and have come to any conclusion on the question whether the Indian weaver would not suffer very adversely, by the Government having accepted the recommendations of this Special Tariff Board ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir. Government have not examined it apart from the recommendations of the



Special Tariff Board as they had no reason or data for thinking that the conclusions arrived at by the Special Tariff Board were not justified.

**Mr. S. Satyamurti** : Are Government watching the effect of these new reduced duties on the handloom weavers' market in this country ?

**The Honourable Sir Muhammad Zafrullah Khan** : The position with regard to all these duties is continuously watched.

**Mr. S. Satyamurti** : May I specifically ask whether Government will take steps to have particular attention paid to the effect on the handloom weavers' products in this country, as a result of the imposition of these new reduced duties on British textiles ?

**The Honourable Sir Muhammad Zafrullah Khan** : If any particular facts appear, attention will be paid to them.

**Mr. S. Satyamurti** : What is the machinery in the possession of Government, by which they judge the effects of these duties on handloom weavers and their products ?

**The Honourable Sir Muhammad Zafrullah Khan** : There are different kinds of statistics that are supplied to Government by their officers.

**Prof. N. G. Ranga** : Is it not a fact that when this Special Tariff Board was investigating this matter the possible effects of such a reduction as has taken place on the handloom weavers industry were not studied ?

**The Honourable Sir Muhammad Zafrullah Khan** : Their report shows that they did study them.

**Prof. N. G. Ranga** : Is it not a fact that the Madras Government has protested against the reduction in these duties ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am not aware of that.

**Prof. N. G. Ranga** : Has the Government of Madras made any representation with reference to part (d) of this question to introduce a compartmental system of work between the handloom weavers so that the handloom industry may not suffer so much as a result of their competition with cotton mill industry ?

**The Honourable Sir Muhammad Zafrullah Khan** : I would require notice of that question. I do not seem to have any recollection of any such representation.

**Mr. T. S. Avinashilingam Chettiar** : May I ask whether the Government are satisfied that the attention they are giving and the Local Governments are giving to the protection of the handloom weavers is sufficient and that their condition is really improving ?

**The Honourable Sir Muhammad Zafrullah Khan** : That is a question of opinion.

ARTICLE ENTITLED "ROAD AND RAIL POSITION THROUGHOUT THE WORLD"  
PUBLISHED IN THE *Hindustan Times*.

90. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to an article entitled "Road and Rail Position throughout the world", published in the *Hindustan Times* of the 24th of July, 1936 ;

(b) whether they are prepared to profit by the facts and arguments mentioned therein ; and

(c) whether they propose to keep in mind the co-ordination of road and rail transport from the point of view of the greatest convenience of the greatest number of people and from no other point of view ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Yes.

(b) and (c). Government are always prepared to consider all facts and arguments from whatever source they emanate, and bear them in mind from the point of view suggested in the Honourable Member's question.

**Mr. S. Satyamurti :** May I know if the result of their constant readiness to profit by advice is shown only by the example of the Ticketless Travel Bill, the Motor Transport Bill, and the Road Resolution ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is not a question.

**Mr. President** (The Honourable Sir Abdur Rahim) : That is not a question.

**Mr. S. Satyamurti :** What is wrong with it, Sir ?

**Mr. President** (The Honourable Sir Abdur Rahim) : It is really a sarcastic reflection on the Government and does not really ask information and that is not allowed.

**Mr. S. Satyamurti :** Then what is the result of their profit from our advice ? Is it not only the three things that I have mentioned, or have they got anything else in their mind ?

**The Honourable Sir Nripendra Sircar :** The question is sarcastic.

**Mr. S. Satyamurti :** Life would be intolerable here, Sir, unless we have some humour occasionally.

**Mr. President** (The Honourable Sir Abdur Rahim) : We have plenty of display of humour in the House.

**Mr. S. Satyamurti :** I will then put the question, as my Honourable friend, the Law Member, would put it. May I ask very respectfully from the Government whether their profit by the advice of all these gentlemen has resulted in the Road Resolution, Ticketless Travel Bill and the Motor Vehicles Bill, or have they got any other suggestions in their mind as a result of the profit from this advice ?

**The Honourable Sir Muhammad Zafrullah Khan :** May I respectfully remind the Honourable Member that the essence of this question has been answered several times in this House.

NOTE ENTITLED " FRONTIER POST ATTACKED " PUBLISHED IN THE *Statesman*.

691. \***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether the facts mentioned in the Government note published in the *Statesman* of the 24th of July, 1936, entitled " Frontier Post attacked " is correct ; and

(b) why such incidents continue to take place ?

**Sir Aubrey Metcalfe :** (a) Yes.

(b) Such incidents are attributable to conditions peculiar to tribal territory as also to the mentality of some of the inhabitants thereof.

**Mr. M. Asaf Ali :** May I ask which of these Frontier posts was attacked ?

**Sir Aubrey Metcalfe :** It is somewhere in South Waziristan.

**Mr. S. Satyamurti :** May I know whether, since the 24th July, 1936, the position in the Frontier from this point of view has improved or has deteriorated or is stationary ?

**Sir Aubrey Metcalfe :** Which point of view ?

**Mr. S. Satyamurti :** That is to say, of the disturbances due to the nature of some of these people, and such incidents as have happened ?

**Sir Aubrey Metcalfe :** This was not a disturbance ; it was merely a private feud between two individuals and a *Khassadar* post was attacked in the course of this feud by a number of other individuals. That was all that happened. It was not an anti-Government affair and there is no disturbance at present in the Frontier.

**Mr. S. Satyamurti :** Do such incidents still take place in the Frontier ?

**Sir Aubrey Metcalfe :** Such incidents take place even in British India. There are murders committed in private feuds.

**Mr. S. Satyamurti :** May I know whether the situation in the Frontier is no worse than in any settled tracts in British India ?

**Sir Aubrey Metcalfe :** I do not think I can be called upon to make a comparison of that sort.

**Mr. President (The Honourable Sir Abdur Rahim) :** That is not a proper question to ask.

**Mr. S. Satyamurti :** But he provoked the question. He said that such incidents take place in British India. In that case, I am surely entitled to ask whether the position in the Frontier is the same as in the rest of India ?

**Mr. President (The Honourable Sir Abdur Rahim) :** It is a matter of opinion.

**Mr. S. Satyamurti :** But he offered to give an opinion. I did not ask him to say that.

**Mr. President (The Honourable Sir Abdur Rahim) :** Next question.

**MEMORANDUM SUBMITTED BY THE INDIAN NATIONAL ASSOCIATION OF ZANZIBAR TO MR. G. H. BINDER.**

692. \***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they have received a copy of the memorandum submitted by the Indian National Association of Zanzibar to Mr. G. H. Binder, published in the *Hindustan Times* of the 21st July, 1936 ;

- (b) whether they have examined the allegations in the memorandum that so far as prices have improved since 1933, the improvement is not due to the operations of the Clove Growers' Association, but due normally to the recovery which is taking place in the commodities as a whole ;
- (c) whether they have also examined the other allegations of the Association in the memorandum, that the Clove Growers' Association has ruined Indian Trade in cloves, has seriously endangered Indian trade in other respects, and has antagonised the foreign market ; and
- (d) whether they will continue to press upon the authorities that the Clove Growers' Association, as at present constituted, should be abolished, or, in the alternative, it should direct its operations only towards promoting the welfare of the producer and should on no account take part in buying and selling them locally, or in foreign market ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) to (d). Government have examined the memorandum and will take into account the arguments used and suggestions made there in any further representations that may have to be made after receipt of Mr. Binder's report.

**Mr. S. Satyamurti :** With reference to the answer to clause (b) of the question, may I know if the Government have examined the position, and have come to any conclusion on this statement that the improvement is not due to the operations of the Clove Growers' Association, but to normal recovery ?

**Sir Girja Shankar Bajpai :** It is rather a difficult question to answer. There are two contending points of view. One is that the improvement is due to the raising of prices because of the operations of the Clove Growers' Association. The Indian contention is that it is not so ; that it is part of the natural process of recovery that has taken place during the last two years.

**Mr. S. Satyamurti :** Have Government examined this question, and have they come to any conclusion ?

**Sir Girja Shankar Bajpai :** I would submit that it would not be in the public interest for me to say what Government's conclusion in regard to that is. That conclusion had better be reserved for the time when we make representations to His Majesty's Government.

**Mr. S. Satyamurti :** May I take it, then, that the Government have examined this matter and have come to a conclusion ?

**Sir Girja Shankar Bajpai :** Yes. Indeed, the memorandum was, as a matter of fact, drawn up with the assistance of Mr. Bozman ; whom the Government of India sent to Zanzibar.

**Mr. S. Satyamurti :** Is not the same answer to clause (c) of the question also ?

**Sir Girja Shankar Bajpai :** The answer is that Government have examined the allegations that have been made therein.

**Mr. S. Satyamurti** : With regard to part (d), have Government made or will they make representations on the lines suggested, particularly that this Association, if it is not abolished, should direct its operations only towards promoting the welfare of the producer and should on no account take part in buying and selling cloves locally or in foreign market ?

**Sir Girja Shankar Bajpai** : Sir, I would not like to commit myself at this stage to the adoption of any particular argument used in the memorandum, but I can tell my Honourable friend that we shall certainly express very candidly our opinion in regard to the Clove Growers' Association.

**Maulana Shaukat Ali** : Has this Clove Growers' Association in any way improved the condition of the original inhabitants in Zanzibar ?

**Sir Girja Shankar Bajpai** : That is the contention of the Clove Growers' Association.

**Maulana Shaukat Ali** : Do the Government in India intend the setting up of marketing arrangements so that the produce might get better price ?

**Sir Girja Shankar Bajpai** : I am not aware of any marketing arrangements in India to improve the position of the clove growers in Zanzibar.

**Maulana Shaukat Ali** : Does the Clove Growers' Association make any arrangements there with a view to help the original producers of Zanzibar in getting a fair market for their produce ?

**Sir Girja Shankar Bajpai** : I have answered that question already. The Clove Growers' Association contend that all their activities are calculated to put the producer in Zanzibar in the most favourable position.

**Maulana Shaukat Ali** : Thank you.

POSITION OF INDIANS IN ZANZIBAR.

693. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading note on the position of Indians in Zanzibar, published in the *Hindu*, dated the 20th of July, 1936 ;
- (b) whether they are prepared to press upon the authorities that Indian traders are in favour of fixing the minimum price and not a maximum price for cloves ; and
- (c) whether they propose to take steps to secure an opportunity to make their own representation on Mr. Binders' recommendations before the Colonial Office finally disposes of the question ?

**Sir Girja Shankar Bajpai** : (a) Yes.

(b) The Honourable Member's attention is invited to the reply which I have just given to parts (b) to (d) of his immediately preceding question.

(c) The Honourable Member's attention is invited to the reply given by me on the 31st August, 1936, to the supplementary questions arising out of Mr. T. S. Avinashilingam Chettiar's starred question No. 23.

ARTICLE ENTITLED "INDO-JAPANESE TRADE TALKS" PUBLISHED IN THE *Statesman*.

694. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Indo-Japanese Trade Talks", published in the *Statesman* of the 23rd of July, 1936 ;
- (b) whether they propose to consider all the facts and arguments contained in the article in initiating Indo-Japanese Agreement ; and
- (c) whether they propose to give facilities to all interests concerned to make their representations at every stage of the negotiations ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) to (c). Yes.

**Mr. S. Satyamurti :** With reference to part (c), what are the facilities now available at the present stage of negotiations for all interests concerned to make their representations ?

**The Honourable Sir Muhammad Zafrullah Khan :** The same as have been available throughout.

**Mr. S. Satyamurti :** May I know whether, in the present stage of the negotiations, Government have taken steps, or will take steps to consult all relevant, industrial and commercial interests, before they finally make up their minds on the matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** If a stage is reached where such consultation would be of help, they will certainly do so.

**Mr. T. S. Avinashilingam Chettiar :** Who will determine whether industrial and commercial opinion will be beneficial to them or not ?

**The Honourable Sir Muhammad Zafrullah Khan :** I did not say so in the abstract. I said if a stage is reached where further consultation is likely to be helpful, they will do so. Obviously, it is for the Government to decide.

**Prof. N. G. Ranga :** Has any one been consulted by the Government of India in regard to cotton growers' interests ?

**The Honourable Sir Muhammad Zafrullah Khan :** Among the non-official advisers these interests are represented.

FRANCHISE FOR INDIANS IN FIJI.

695. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "The Imposed Compromise", published in the *Hindustan Times* on the 20th of July, 1936, referring to the franchise for Indians in Fiji ;

- (b) the reasons why the principle of nomination is being still maintained with respect to two Indians and two Europeans ;
- (c) the reasons why the 4,000 Europeans on the one hand get five representations, while 60,000 Indians get only five ; and
- (d) whether they propose to make further representations to increase the representation of Indians and also for a common electoral roll ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) The Honourable Member's attention is invited to paragraph 5 of the summary of the Despatch from the Secretary of State for the Colonies, a copy of which was laid on the table in reply to Mr. T. S. Avinashilingam Chettiar's starred question No. 68 on the 2nd September last.

(c) and (d). I would invite the Honourable Member's attention to my replies to the supplementary questions arising out of starred question No. 68, and to paragraph 5 of the summary referred to in part (b).

**Mr. S. Satyamurti :** May I know how long the Government propose to wait, before they take steps to make further representations on the lines suggested in clause (d) of the question ?

**Sir Girja Shankar Bajpai :** I cannot assign any specific time limit with regard to this.

**Mr. S. Satyamurti :** Do Government realise the disparity pointed out in clause (c) of the question ? Will they at least keep that in mind, and take the earliest possible opportunity to make further representations on this matter ?

**Sir Girja Shankar Bajpai :** On the last occasion when a similar supplementary question was put by my Honourable friend, I reminded him of the statement made on behalf of the Government of India sometime in 1929 when the original decision in regard to the composition of the Fiji Legislative Council was taken. In the Resolution of the Government of India my Honourable friend will find that the Government of India made a very strong point of increasing the Indian representation because of the larger Indian population, but unfortunately that representation was not conceded by the Colonial Office who took the view that so long as there is an official majority, it does not very much matter what the representation of individual communities is.

**Mr. S. Satyamurti :** Will the Government take up the matter, and if so, how soon ?

**Sir Girja Shankar Bajpai :** That is asking me the same question over again. I have said that I cannot fix any exact time when representations will be made. When opportunity occurs the representations will be made.

**Mr. S. Satyamurti :** As regards common electoral roll, will Government make any representations ?

**Sir Girja Shankar Bajpai :** In regard to the common electoral roll Government do not think that the time is opportune for making any representations because the Secretary of State for the Colonies has declared

categorically in his latest Despatch that he does not think that the circumstances of Fiji would justify the introduction of a common electoral roll.

#### RAIL-ROAD COMPETITION AND CONVENIENCES FOR THIRD CLASS PASSENGERS.

696. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled " Against public policy ", published in the *Bombay Sentinel*, of the 20th of July, 1936, regarding rail-road competition ;
- (b) whether they have taken or propose to take any steps to increase the conveniences for third class passengers ;
- (c) whether the new type of third class carriages is going to be introduced and, if so, when, and to what extent ; and
- (d) whether they are aware of the strong feeling in the country against trying to help the railways, at the expense of the road users, without taking all other steps to make the railways more efficient and less costly in management ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Yes.

(b) All practicable efforts are being and will continue to be made in this respect.

(c) Details of the design are still under examination.

(d) Government are aware of the variety of views expressed. They are pursuing their policy of endeavouring to secure greater efficiency at the minimum cost.

**Mr. S. Satyamurti :** I am tired of asking this question contained in part (b), you will pardon me, Sir, I should like to know whether the Honourable the Commerce Member will be good enough to say compendiously what are the steps which have actually been taken, since a Resolution on this subject was passed both at budget time and since, to increase the convenience of third class passengers ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have answered that several times.

**Mr. S. Satyamurti :** When did the Honourable Member answer ?

**Mr. President (The Honourable Sir Abdur Rahim) :** I think it has been answered on several occasions.

**The Honourable Sir Muhammad Zafrullah Khan :** Some days ago, I gave instances relating to the conveniences provided for third class passengers.

#### ARTICLE ENTITLED " GREED OF KENYA WHITES " PUBLISHED IN THE *Bombay Sentinel*.

697. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled " Greed of Kenya Whites ", published in the *Bombay Sentinel* ;



- (b) whether the Order-in-Council has been received by them, and, if so, whether it would be placed on the table of this House ;
- (c) whether it is a fact that there has been an addition of something like 5,000 square miles to the reserved area for the Europeans ;
- (d) whether the natives are not satisfied with the area reserved for them, as it is too small ; and
- (e) whether they are prepared to ascertain if in fact any discrimination is practised against Indians in the Highlands ?

**Sir Girja Shankar Bajpai :** (a) Yes.

(b) The reply to the first half is in the negative. The second half does not arise.

(c) and (e). The attention of the Honourable Member is invited to the replies given to the supplementary questions arising out of his starred question No. 42 on the 1st September last.

(d) Government have no information.

**Mr. S. Satyamurti :** With reference to part (b) of the question, may I know if there is any delay in sending the Order-in-Council or whether Government will not at any time get the Order-in-Council ?

**Sir Girja Shankar Bajpai :** I am pretty certain that we shall get a copy of the Order-in-Council when it is issued, but the substance of the Order-in-Council has already been announced in the House of Commons by the Secretary of State for the Colonies.

**Mr. S. Satyamurti :** Will the Government be good enough to send for a copy of the Order-in-Council, and place it on the table of the House ?

**Sir Girja Shankar Bajpai :** The India Office are already aware of our anxiety to have a copy of the Order-in-Council. As soon as it is issued, I have no doubt whatsoever that they will send it. But whether it can be placed on the table of the House will depend on whether the House will be in session at the time.

**Mr. T. S. Avinashilingam Chettiar :** With reference to part (e) have the Government ascertained if in fact any discrimination is practised against Indians in the Highlands ?

**Sir Girja Shankar Bajpai :** Apart from the discrimination in regard to the holding of land, Government are not aware that any discrimination is being practised.

**Mr. S. Satyamurti :** Since this Order-in-Council was passed, may I know if the Government have any information as to the practical exclusion of Indians by *de facto* orders ? Apart from the Order-in-Council giving statutory recognition of this reservation, as a matter of fact, have any Indians applying, and have been denied any land in Highlands ?

**Sir Girja Shankar Bajpai :** In the first place no Order-in-Council has been passed. All that has happened is that the Secretary of State for the Colonies has declared what the intentions of His Majesty's Government in regard to the passing of the Order-in-Council are. I am not aware that there has been any individual case of Indians applying and being refused. As a matter of fact, since 1923, Indians have not been applying for land in the Highlands.

**Mr. T. S. Avinashilingam Chettiar :** Is there any agency to enquire into this matter in Kenya ?

**Sir Girja Shankar Bajpai :** There are two fairly representative and influential Indian societies set up by the Indian community itself in Kenya which keep the Government of India informed of developments.

INTERVIEW OF SIR SIKANDAR HAYAT KHAN, DEPUTY GOVERNOR OF THE RESERVE BANK, WITH THE FINANCE MEMBER.

698. \***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether it is a fact that Sir Sikandar Hayat Khan, Deputy Governor of the Reserve Bank had recently an interview with the Honourable the Finance Member to the Government of India ; and

(b) whether the interview was to ascertain whether and when he could be relieved from his post of Deputy Governorship of the Reserve Bank of India with a view to his leading the Unionist Party in the Punjab ?

**The Honourable Sir James Grigg :** (a) Yes.

(b) Sir Sikandar Hayat Khan informed me of his wish to resign from the Deputy Governorship of the Reserve Bank.

**Mr. S. Satyamurti :** May I know whether Sir Sikandar Hayat Khan told the Honourable the Finance Member the reasons why he desired to resign his post on the Reserve Bank ?

**The Honourable Sir James Grigg :** That is not a question which I feel obliged to answer.

**Mr. S. Satyamurti :** May I know whether his appointment in the Reserve Bank was for a period of ten years ?

**The Honourable Sir James Grigg :** No, certainly not.

**Mr. S. Satyamurti :** What was then the period of his appointment ?

**The Honourable Sir James Grigg :** Five years.

**Mr. S. Satyamurti :** May I know whether the Honourable the Finance Member told him at the interview that he would be relieved of his appointment, as and when he wanted to resign ?

**The Honourable Sir James Grigg :** The next question on the list of questions today relates to this point and I shall answer it then.

**Mr. S. Satyamurti :** May I know whether the object of the interview was to ascertain from the Government of India whether he would be relieved, and if so, when ?

**The Honourable Sir James Grigg :** I will answer that in the next question.

**Mr. S. Satyamurti :** May I know whether Sir Sikandar Hayat Khan told the Honourable the Finance Member that he wanted to give up this post, with a view to lead the Unionist Party in the Punjab ?

**The Honourable Sir James Grigg :** That is the question in another form which I have already said that I did not feel compelled to answer.

**Mr. S. Satyamurti** : I want to know whether Sir Sikandar Hayat Khan told the Finance Member that he wanted to be relieved of his job, with a view to leading the Unionist Party in the Punjab.

**The Honourable Sir James Grigg** : I am not prepared to give any detailed information as to a perfectly private interview.

**Mr. S. Satyamurti** : I am asking what the Deputy Governor of the Reserve Bank told the Finance Member of the Government of India.

**The Honourable Sir James Grigg** : And I say I am not going to tell the Honourable Member.

**Mr. S. Satyamurti** : He must tell me, Sir, unless he satisfies you that, under the Rules and Standing Orders, he can withhold the information from me or from the House.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member knows very well that I cannot compel nor can the Honourable Member compel any Member of Government to answer any question which he thinks he cannot or should not answer.

**Mr. M. Ananthasayanam Ayyangar** : Has a successor been appointed to Sir Sikandar Hayat Khan ?

**The Honourable Sir James Grigg** : That does not arise.

**Mr. M. Ananthasayanam Ayyangar** : Has it been thought of ?

**Mr. S. Satyamurti** : Sir, I want to make one submission. So far as I understand the Rules and Standing Orders and your rulings, Honourable Members of Government are entitled to say that, in the public interest, they cannot answer certain questions. And you have always ruled, and we have submitted to your ruling, that they are the sole judges of what the public interests are. But surely for a Member to get up and say that he will not answer a question, when you have ruled that the question is in order, is against the Rules and Standing Orders, as I read them.

**Mr. President** (The Honourable Sir Abdur Rahim) : It is not public interest only. Supposing there is some confidential conversation he is not bound to answer.

**Mr. S. Satyamurti** : He must say that it is confidential.

**The Honourable Sir James Grigg** : I said it was a private conversation, and private is the same as confidential.

**Mr. S. Satyamurti** : Private is not the same as confidential.

**The Honourable Sir James Grigg** : I quite understand that, in India.

**Mr. M. Ananthasayanam Ayyangar** : Is it or is it not a fact that Sir Sikandar Hayat Khan has been appointed Revenue Member of the Punjab ?

**The Honourable Sir James Grigg** : That arises out of part (d) of the next question.

**Mr. S. Satyamurti** : Sir, on a point of order. my Honourable friend said that he understands that private does not mean confidential in India. He can insult me but he cannot insult my countrymen. I submit that it is an insult to the whole country to say that in India private is not confidential. I submitted that private is one thing and confidential is another,

and I repeat that. A thing may be private, and yet it may not be confidential. But to say that in India private is not confidential is an insult, from which I appeal to you to protect your own countrymen.

**The Honourable Sir James Grigg** : Sir, I will request you to direct the Honourable Member to pay attention to his own exhortation delivered two minutes ago about a sense of humour. (Laughter.)

**Mr. S. Satyamurti** : That is an apology, I accept it. (Laughter.)

REPORT ENTITLED " SIR SIKANDAR'S ASSURANCE TO UNIONISTS " PUBLISHED IN THE *Hindustan Times*.

699. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to a report in the *Hindustan Times* of the 23rd of July, 1936, entitled, " Sir Sikandar's assurance to Unionists " ;
- (b) whether Sir Sikandar Hayat Khan made a speech in Lahore on the 22nd of July to a meeting of the Unionist Party, held in camera and stated *inter alia* " There are many who publicly stated that our party has died or will soon die but our actions belie such forebodings " ;
- (c) whether Deputy Governors and other officials of the Reserve Bank are allowed to take part in politics and make such political speeches ; and
- (d) whether he is already assured that he will be relieved of his job in the Reserve Bank, in time for his leading the Unionist Party in the Punjab during the ensuing provincial election ?

**The Honourable Sir James Grigg** : (a) Yes.

(b) I notice that the meeting was said to be a private one. In any case I have not asked Sir Sikandar Hayat Khan whether the report is accurate or not.

(c) I would refer the Honourable Member to the Statement of Objects and Reasons attached to the Reserve Bank Bill.

(d) Sir Sikandar Hayat Khan has been informed that Government are prepared to release him as from the middle of next month.

**Mr. S. Satyamurti** : May I know the reasons why Government have agreed to relieve Sir Sikandar Hayat Khan of his post of Deputy Governor from the middle of next month ?

**The Honourable Sir James Grigg** : For two reasons, both of them quite good ones. First, because he wanted to go, and second, because we cannot stop him from going. (Laughter.)

**Mr. S. Satyamurti** : May I know why his resignation was accepted ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Supposing you appoint somebody to any post for five years, does that mean that he cannot resign ?

**Mr. S. Satyamurti** : Sir, if you will kindly look at the Reserve Bank Act, you will find that he cannot effectively resign, unless the resignation has been accepted by the Government of India. My Honourable friend

said, he cannot stop him, but he can. I am asking the reasons why Government agreed to accept the resignation, when that discretion is vested solely in the Government of India, under the Reserve Bank Act.

**The Honourable Sir James Grigg :** I think the Honourable Member is stretching the meaning of the Reserve Bank Act too far. If either the Governor or Deputy Governor wished to resign, there is no power on earth to prevent them resigning.

**Mr. S. Satyamurti :** May I know whether it is or it is not a fact that the Government of India wanted to help the Unionist Party in the Punjab, and therefore to oblige them, in order to fight the progressive parties, obliged Sir Sikandar Hayat Khan and allowed him to resign in time for the election ?

**The Honourable Sir James Grigg :** No, Sir, absolutely untrue.

**Mr. S. Satyamurti :** In view of this high temper of my Honourable friend, will he be good enough or chivalrous enough to tell me and this House whether Sir Sikandar Hayat Khan did or did not tell him that he wanted to lead the Unionist Party in the Punjab ?

**The Honourable Sir James Grigg :** The Honourable Member is trying to provoke a recrudescence of the slight rise in temperature which occurred on the last question (Laughter.)

**Mr. S. Satyamurti :** To say that it is untrue is nonsense : because he has no business to say it is untrue, when I can assert that Sir Sikandar Hayat Khan told him that, as he wanted to lead the Unionist Party, he desired to be relieved of his job.

**The Honourable Sir James Grigg :** The question I was asked was whether it was a definitely put up job in order that Government might help the Unionist Party. That is one question which I answered quite definitely in the negative. The other is, whether he told me of his intention, and this I refused to answer.

**Mr. S. Satyamurti :** May I know if the attention of Government has been drawn to the fact that, soon after his retirement next month, he will be appointed Revenue Member of the Punjab Government which will be rendered vacant for him, immediately on the day on which he is relieved of his post of Deputy Governor of the Reserve Bank ?

**The Honourable Sir James Grigg :** I believe I saw a report to that effect in yesterday's telegrams. I did not notice the exact date.

**Mr. S. Satyamurti :** Is it an accident, or a coincidence, or a deliberate arrangement ?

**The Honourable Sir James Grigg :** The Honourable Member is as capable as I am of answering that.

**Mr. N. M. Joshi :** Do the Government of India repent having appointed a politician to a post which was intended for a financial expert ?

**The Honourable Sir James Grigg :** No ; on the contrary I think the appointment was an extremely good one and Sir Sikandar Hayat Khan has rendered extremely good service to India in that post.

**Mr. S. Satyamurti :** Is it because of his extremely good services that he has been allowed to go away ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I cannot allow any further discussion.

**LETTERS ISSUED FROM THE ROYAL CONSUL GENERAL OF ITALY FROM CALCUTTA.**

700. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether their attention has been drawn to the letters issued from the Royal Consulate General of Italy from Calcutta, week after week, and particularly the issue of the 13th of July, 1936 ;
- (b) whether they have noticed a reference to the Ethiopian Emperor as a fugitive and his speech as a mischievous one ; and
- (c) whether they have noticed an attack on the League Assembly ?

**Sir Aubrey Metcalfe** : (a) to (c). Yes.

**Mr. S. Satyamurti** : May I know whether this gentleman has retired from Calcutta ?

**Sir Aubrey Metcalfe** : I think he has actually left. If he has not left he will be leaving within the next day or two.

**Mr. S. Satyamurti** : I may say that in all his life nothing became him so much as the leaving of it.

**NEGOTIATIONS FOR THE ESTABLISHMENT OF BETTER TRADE RELATIONS WITH FOREIGN COUNTRIES.**

701. \***Seth Govind Das** : Will Government be pleased to state :

- (a) whether they have arrived at any decision, after giving notice of termination to the Ottawa Agreement, to negotiate with Empire and non-Empire countries for the establishment of better trade relation with other countries for our country ;
- (b) what the countries are, excluding Japan, with whom correspondence so far has taken place on the subject ;
- (c) what the suggestions are of the various countries, made whether in answers to communication made by Government on the matter or made voluntarily by them ;
- (d) what are the terms suggested by them for the future trade relations with other countries and whether such terms have been outlined on any one principle underlined, if so, what the principle is ;
- (e) whether they have invited expert commercial opinion of this country before deciding the principle to be adopted in the matter of negotiation for the establishment of trade relation with other countries ; if not, the difficulties standing in their way for not doing so on a vital matter of such magnitude ;
- (f) whether, and if so, when this House will discuss the merits of the negotiations conducted by Government and whether any opportunity will be afforded to this House for the scrutiny of the principles involved, before committing the country, whether provisionally or finally, to the terms of trade relationship ;

(g) whether they will place the entire record of deliberations on the subject, up-to-date, on the table for timely suggestions, if any ; and

(h) in the event of the answer to part (g) being in the negative, whether they will state their reasons therefor ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) to (d). The attention of the Honourable Member is invited to the reply given by me to Mr. S. Satyamurti's starred question No. 35 in the current Session.

(e) Representative commercial bodies in India have been consulted as to the lines on which it is considered desirable to conclude a new Agreement with His Majesty's Government in the United Kingdom.

(f) The Government of India are under no constitutional obligation to place before the House for discussion the terms of a trade agreement before it is concluded.

(g) and (h). No, Sir. Government are not prepared to disclose the nature of the deliberations that have taken place on the subject.

**Prof. N. G. Ranga :** What steps have been taken by Government to invite the opinion of agricultural interests in this country in regard to this renewal of the Ottawa Trade Agreement ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already answered that question.

**Prof. N. G. Ranga :** May I know, Sir,....

**Mr. President** (The Honourable Sir Abdur Rahim) : I think the question has been fully answered. The Honourable Member must look up the questions and answers.

**Prof. N. G. Ranga :** He has not referred me to any particular answer.

**Mr. President** (The Honourable Sir Abdur Rahim) : When the Honourable Member says he has answered the question, he ought to look up the questions and answers.

**Prof. N. G. Ranga :** I bow to your ruling, Sir. I am only submitting to you that as far as this particular question is concerned, there is not one mention made here of consulting the opinion of agricultural interests : there has not been any answer given on that particular point.

**Mr. President** (The Honourable Sir Abdur Rahim) : Not now, but previously : that is what he says.

**Prof. N. G. Ranga :** If he has given it previously it is permissible to him to mention the question to which he has given an answer on this particular point.

**Mr. President** (The Honourable Sir Abdur Rahim) : When an Honourable Member says that he has answered the question previously, it is open to any Honourable Member to ask him when.

**Prof. N. G. Ranga :** All right, Sir. When was it answered and in answer to what question did the Government of India give that answer to my supplementary question just now ?

**The Honourable Sir Muhammad Zafrullah Khan :** It was a supplementary question to a similar question put by the same Honourable Member with regard to the same matter to which I gave a reply.

PUBLIC OPINION ON THE REPORT OF SIR OTTO NEIMEYER.

702. \***Seth Govind Das :** Will Government be pleased to state :

- (a) whether they have taken a complete and minute conspectus of the public opinion, expressed from various press and platforms in this country and outside, on the Neimeyer Report ;
- (b) the number of opinions of this country against the report in comparison with those that are in favour ;
- (c) in the event of the majority being against the report, whether they have communicated the matter to His Majesty's Government either in general or in particular details ; and
- (d) if so, what is the result thereof ; and if not, the reasons of the Government therefor ?

**The Honourable Sir James Grigg :** (a), (b), (c) and (d). I would refer the Honourable Member to the answers to questions Nos. 31, 213 and 294.

RECOMMENDATIONS OF THE AMERY TRIBUNAL IN RESPECT OF THE INDO-BURMA FINANCIAL SETTLEMENT.

703. \***Seth Govind Das :** Will Government be pleased to state :

- (a) the procedure adopted for the work of the Application Committee appointed during last winter to implement the recommendations of the Amery Tribunal in respect of the Indo-Burma financial settlement ;
- (b) whether the work will be carried on within the four corners of the recommendations ;
- (c) who are in charge of the work of settlements on each side ;
- (d) how long the task will take to complete the settlement ;
- (e) how far the work has gone till now ;
- (f) whether there is an umpire to intervene in case of disagreement between the Governments of Burma and India ; if so, who the umpire is ;
- (g) whether certain subjects of much importance will be disposed of before the date of separation ;
- (h) when the preliminary report of the Application Committee is likely to be in the hands of the Government of India and London ; and
- (i) whether they have considered that the entire settlement cannot be completed by any manner of means by or before the date of separation ; and if not ; what are the difficulties facing the Government in the matter ?



**The Honourable Sir James Grigg :** (a), (b), (c), (d), (f), (g), (h) and (i). I would invite the attention of the Honourable Member to paragraphs 87-93 of the Amery Tribunal's Report, to the Press Communiqué, dated the 14th January, 1936, and to the reply given by me to Mr. Satyamurti's starred question No. 462 on the 17th September, 1936.

(e) Preliminary work is being done.

**REFUSAL OF THE BRITISH DELEGATION AT ADDIS ABABA TO PROTECT INDIANS.**

**704. \*Seth Govind Das :** Will Government be pleased to state :

- (a) whether it is a fact that the British Delegation at Addis Ababa refused to give protection to Indians in that city during the recent Italo-Ethiopian War ;
- (b) whether they have taken any action in the matter ;
- (c) whether they have ascertained from the concerned Secretary of State in His Majesty's Government the reasons actuating their refusal to protect Indians in Addis Ababa ; and
- (d) what conclusion Government have arrived at in the matter ?

**Sir Aubrey Metcalfe :** (a) No.

(b) to (d). Do not arise.

**PRODUCTION OF QUININE IN INDIA.**

**705. \*Seth Govind Das :** Will Government be pleased to state :

- (a) the Indian provinces that grow quinine and the quantities they produce annually ;
- (b) the basis on which the price of quinine is fixed by the Government ;
- (c) whether they have considered that each province in India could be encouraged to produce enough quinine in order to be self-sufficient in their wants for the future ; and
- (d) whether they propose to grow sufficient quinine in India instead of depending, in future, on the Arakan Coast supplies, after Burma stands separated from India ?

**Sir Girja Shankar Bajpai :** (a) Cinchona from which quinine is produced is at present grown in Bengal and Madras and in Burma where the plantations belonging to the Government of India are situated. A statement showing the quantities of quinine sulphate manufactured for the three Governments engaged in the production of the drug during the period 1931-32 to 1934-35 is laid on the table of the House.

(b) The present price was fixed in 1926 in relation to the world market price and the cost of production.

(c) The attention of the Honourable Member is invited to the answer given to questions supplementary to Dr. T. S. Rajan's question No. 274 on the 11th February, 1936.

(d) India does not depend now to any appreciable extent on the existing supplies of bark from Burma. The question whether Bengal and Madras should increase their production so as to meet India's requirements is now a practical question primarily for those two Governments.

*Statement showing the Production of Quinine Sulphate.*

	Government of India.	Government of Bengal.	Government of Madras.
	lbs.	lbs.	lbs.
1931-32 .. .. .	1,536	43,534	22,307
1932-33 .. .. .	3,981	42,239	23,153
1933-34 .. .. .	5,739	45,728	22,716
1934-35 .. .. .	3,224	52,964	22,314

**Seth Govind Das :** When was the price fixed ?

**Sir Girja Shankar Bajpai :** I have said in 1926.

**Seth Govind Das :** Do Government not think that enough time has passed and that conditions having changed there should be less cost of production and under the circumstances will Government take steps to reduce the price ?

**Sir Girja Shankar Bajpai :** No : the passage of time has not affected the cost of production. The cost of production, as I stated in answer to a question during the last Session of the Assembly, is very near the price which we charge.

**Prof. N. G. Ranga :** Is it not a fact that in the report of the Public Health Commissioner it is stated that the sale price is Rs. 18 per pound, whereas the cost of production is only Rs. 7|8 ?

**Sir Girja Shankar Bajpai :** No : my Honourable friend is probably referring to the report of the Government of Bengal, where the cost of production is, I believe, given as Rs. 7|8 a pound. We have taken up the matter with the Government of Bengal and it now transpires that the cost of production is probably higher than Rs. 7|8.

**Prof. N. G. Ranga :** How do the Central Provinces supply themselves with necessary quantities of quinine ? Do they purchase it from the Government of India ?

**Sir Girja Shankar Bajpai :** The Central Provinces, speaking from memory, lie in the field of distribution of the Government of Madras and not of the Government of India.

**Pandit Lakshmi Kanta Maitra :** What is now the cost of production in Bengal ?

**Sir Girja Shankar Bajpai :** They have not yet given me a definite answer to that question.

**Seth Govind Das :** When is a definite answer expected ?

**Sir Girja Shankar Bajpai :** I cannot say when the Government of Bengal will have collected the material on which an answer can be based.

**Seth Govind Das :** Will the Government ask them to send a definite answer early so that the real cost of production could be known ?

**Sir Girja Shankar Bajpai :** I can assure my Honourable friend that we have impressed upon the Government of Bengal the desirability of clearing up the question of the cost of production of quinine in Bengal as early as they can.

**Prof. N. G. Ranga :** Are Government aware of the fact that Mahatma Gandhi has been recently affected by malaria and that the Central Provinces Government has not been taking any steps worth mentioning to fight this scourge of malaria ?

**Sir Girja Shankar Bajpai :** I regret that Mahatma Gandhi should have suffered from malaria, but I am quite confident that any delay that may have taken place in his recovery from malaria has not been due to the price of quinine fixed by the Government of India.

**Mr. M. S. Aney :** Is the Honourable Member aware that Mahatma Gandhi was removed to the Civil Hospital at Wadha and that he was treated by the Civil Surgeon there ?

**Sir Girja Shankar Bajpai :** I am glad to hear that, but that also does not affect the answer that I have given.

#### PRICE OF PRODUCTION OF QUININE.

706. **\*Seth Govind Das :** Will Government be pleased to state :

- (a) the price of production for quinine per pound ;
- (b) the profit they get thereof ;
- (c) whether the price of quinine, as fixed at present, could not be reduced ; and
- (d) when they propose to reduce the price of quinine, if not, why not ?

**Sir Girja Shankar Bajpai :** (a) and (b). The attention of the Honourable Member is invited to the answers given to parts (c) and (d) of Dr. T. S. S. Rajan's question No. 272 on the 11th February, 1936.

(c) On the basis of the Government of India's present cost of production the answer is in the negative.

(d) The Government of India will have no power, after the introduction of provincial autonomy, to regulate the price of Government quinine other than their own. The latter, on existing costs of production, cannot be reduced.

TERMINATION OF THE OTTAWA TRADE AGREEMENT.

707. \*Seth Govind Das : Will Government be pleased to state :

- (a) whether it is a fact that they gave notice of the termination of the Ottawa Trade Agreement on the 13th May last to the Board of Trade, Great Britain ;
- (b) the points raised by them in the notice ;
- (c) whether a communication followed the cable of termination of notice ;
- (d) if so, whether they will lay on the table a copy of that communication and the cable giving notice ;
- (e) whether the Government in the United Kingdom replied to the notice and the various points raised therein ; if so, what they are ;
- (f) whether the points mentioned in the notice of termination related to the procedure for a fresh agreement suggested ; and
- (g) whether they will place on the table a copy of the entire correspondence that followed the serving of the termination notice between the Government in the United Kingdom and the Government ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Yes, Sir.

(b) to (g). Government are not prepared to disclose the nature of the correspondence that has taken place with the Secretary of State on the subject.

**Seth Govind Das :** Is it a fact that the Government in this respect acted as an agent of this House because a Resolution was passed in this House to terminate that agreement ? Is it not therefore only fair to the House that they should disclose the facts to the House ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Government did not act as agent of the House. The rest is argument.

**Mr. S. Satyamurti :** May I know whether the communication contained merely notice of termination, or any other point for further negotiations ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is asking in another way a portion of the same question as the previous one.

**Mr. S. Satyamurti :** I want to know whether the communication contained anything except the notice of termination.

**The Honourable Sir Muhammad Zafrullah Khan :** So far as the communication with regard to notice of termination is concerned, it only contained notice of termination.

**Seth Govind Das :** Did the Government give notice to terminate after the Resolution of this House ?

**The Honourable Sir Muhammad Zafrullah Khan :** They gave notice of termination in pursuance of the Resolution of this House.

**Seth Govind Das :** Is it not therefore in fairness to the House to disclose the communications which have been addressed from time to time on this subject ?

**The Honourable Sir Muhammad Zafrullah Khan :** No : it is not necessarily in the fitness of things.

**Mr. Mohan Lal Saksena :** Is it a fact that pending a new agreement the Government propose to continue the Ottawa Agreement ?

**The Honourable Sir Muhammad Zafrullah Khan :** I made a statement to that effect in answer to a supplementary question put by Mr. Satyamurti during the current Session.

**Dr. N. B. Khare :** Did the Government act as an agent of the British Government ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

RECOMMENDATION FOR A SECOND CHAMBER FOR ASSAM.

708. \***Mr. Kuladhar Chaliha :** Will Government please state :

- (a) whether the Government of Assam made any recommendation for a Second Chamber in Assam to the Government of India, and the Government of India in turn made any recommendation to the Secretary of State for India during the discussion of the Government of India Act, 1935, in the House of Lords ;
- (b) whether they received any memorial from any person of Assam, or any copy of the memorial from the Secretary of State ; and
- (c) if so, whether they will lay on the table a copy of the said memorial, with the names of the signatories, with their respective addresses and occupations ?

**The Honourable Sir Nripendra Sircar :** As I have already stated in reply to the Honourable Member's unstarred question No. 5, dated the 31st August, 1936, unanimous recommendation in favour of a Second Chamber was made by the Government of Assam at the time the Government of India Act, 1935, was under consideration in Parliament. The Government of India communicated this recommendation to the Secretary of State.

(b) and (c). A few representations were received at the time by the Government of India ; I do not think any useful purpose will be served by laying on the table copies of these memorials.

**Mr. Kuladhar Chaliha :** May I know whether any resolution from any public body was received for a Second Chamber in Assam during or before discussion of the Government of India Act, 1935, in the House of Commons or House of Lords ?

**The Honourable Sir Nripendra Sircar :** I have already said that some representations were made.

**Mr. Kuladhar Chaliha :** By any public body whatever in Assam ?

**The Honourable Sir Nripendra Sircar :** The longest representation was one which was signed by about 500 or 600 persons : whether they represented a body or not, I am not sure.

**Mr. Kuladhar Chaliha :** Is it a fact that Sir Walter Smiles, a conservative Member of Parliament secured signatures of persons who were interested in tea and petrol ?

**The Honourable Sir Nripendra Sircar :** I have not heard of that : it is not known to me.

**Mr. Kuladhar Chaliha :** Is it a fact that he engineered the whole memorial and he secured the signatures of so many and submitted it ?

**The Honourable Sir Nripendra Sircar :** I have no definite information ; but I suspect it is a fable, and not a fact.

**Mr. Kuladhar Chaliha :** Are the Government aware that he came to Assam some time when the Government of India Act was under discussion in the House of Lords, and secured the signatures of some people interested in tea and petrol when the Act was actually under discussion in the House of Lords and Government was actively helping Sir Walter Smiles ?

**The Honourable Sir Nripendra Sircar :** My friend has rolled up three different questions into one. Jointly and severally to them, I say no.

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### THE ARYA MARRIAGE VALIDATION BILL.

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill to recognise and remove doubts as to the validity of intermarriages current among Arya Samajists, as reported by the Select Committee. Amendment No. 9 was under discussion when the House rose.

The question is :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

“ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least three years prior to the date of marriage ’.”

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim) : Mr. Bajoria, amendment No. 10.

**Babu Baijnath Bajoria** (Marwari Association : Indian Commerce) : Sir, I move :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

“ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage ’.”

Sir, this amendment is in the nature of a compromise. My friend, Mr. Gupta, also seeks to define that Arya Samajist is a person who is a member of any Arya Samaj prior to the marriage, and I also want to define

in the same way. But I only want to make a provision that he must be a member of any Arya Samaj for at least one year prior to the date of the marriage. My reason for making this suggestion is that any person who is not an Arya Samajist and who wants to enjoy the benefits of this Act and wants to get married under it any girl either outside his own caste or religion can do so. If this provision is not added, any person who is a Hindu and who wants to marry a girl outside his caste or religion will seek protection under this Bill, declare himself to be an Arya Samajist, and get the benefit of this Act. That, I think, is very unfair and unjust.<sup>11</sup> The Honourable the Law Member said the other day in connection with my previous amendment that what I sought was tantamount to a self-denying ordinance in regard to restricting marriages for three years. Nothing of the sort. Arya Samajists have been in existence for the last 60 or 70 years, but still they were celebrating marriages without any intervention of an Act of this character, and there was no restriction on marriages. Even now their marriages are not prohibited, and I do not think that either my friend, Mr. Gupta, or my friend, Dr. Khare, the Mover has given a waiting list of marriages which have been suspended pending the passing of this measure. I think, Sir, a provision of this kind is absolutely essential. The other day Honourable Members of all shades of opinion said that legislation was necessary, and it is necessary to define an Arya Samajist under this Act. I think, Sir, my amendment is a very modest one. I may tell my friends that according to the Hindu calendar for the next four months there is no auspicious date for celebrating marriages. Therefore, if the Arya Samajists were to set up a register and enter in it the names of all persons who intend to marry I don't think any inconvenience will be caused to any one. I hope my friend, Mr. Gupta, and the Honourable the Law Member will accept my amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

- ‘ 2. For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage ’.”

I find there are other amendments too which seek to define an Arya Samajist. They are all in the name of Mr. Gupta. Does he want to move them ?

**Mr. Ghansiam Singh Gupta** (Central Provinces Hindi Divisions : Non-Muhammadan) : No, Sir, I am not moving any from Nos. 3 to 8.

**Mr. President** (The Honourable Sir Abdur Rahim) : Now, amendment No. 10 which has been moved by Mr. Bajoria is under consideration.

**Mr. Ram Narayan Singh** (Chota Nagpur Division : Non-Muhammadan) : This question has been thoroughly discussed. I do not understand why my Honourable friend, Mr. Bajoria, should be so very anxious about the definition of the word “ Arya Samajist ”. A man is an Arya Samajist the moment he declares himself to be an Arya Samajist, and I do not think that it is necessary that he should be under apprenticeship for

[Mr. Ram Narayan Singh.]

some time in order to have the benefit of this law. I, therefore, oppose this amendment. My Honourable friend said that this amendment has been tabled by way of a compromise. But I can tell him that nobody is going to accept that compromise.

**Dr. N. B. Khare** (Nagpur Division : Non-Muhammadan) : I also oppose this amendment. This amendment is also on the same lines as the last one which was negatived by the House for valid reasons, the only difference being that the present one provides for a period of one year whereas the earlier one provided for a period of three years. I do not know whether there is any register kept for followers of all faiths, Sikhs, Jains, Brahmans, Hindus, Muslims, or Christians, and if no such register is kept, I do not see why any register should be maintained for Arya Samajists alone and why a distinction should be made only in the case of the Arya Samajists. The followers of all faiths should be on a par and I do not see why the Arya Samajists alone should be on probation for one year for good behaviour. Sir, I oppose the amendment.

**Mr. Umar Aly Shah** (North Madras : Muhammadan) : Mr. President, Hinduism is a very old and great religion, but what is this name, Hindu ? I have seen nearly twenty-seven languages in India, which have been spoken on linguistic basis, but there is no such word as Hindu in ancient books. The other day, a discussion had come in this connection, and the Honourable the Law Member showed the names of some Hindu books, but I do not understand how the mere quoting of books can give the origin of the word Hindu. This word Hindu might have come some 12 hundred years ago, as my Honourable friend, Mr. Sri Prakasa, told us the other day, but this word is not used in any Sanskrit literature or any other Indian literature. Gradually, from some 500 years, this word Hindu was used by the poets in the following way :

“ *Nayachea Hindu kam Parvanadattika Bagidabbukam.* ”

(It means, “ I do not beg Hindu. If a ceremony will come, they will give a copper.”)

“ *Hindurajyarama Durandhara Bhujahi Gramani, etc., etc.* ”

(“ I want to remove this vulgar word Hindu.”)

When the Hindus were defeated, the foreigners used this word Hindu to them, not with a good meaning. The amendment says that Arya Samaj is part of Hinduism.

**Mr. President** (The Honourable Sir Abdur Rahim) : That is not the amendment under consideration. The amendment under consideration is No. 10, and not No. 9. I think the Honourable Member is dealing with No. 9.

**Mr. Umar Aly Shah** : Sir, I will come to the point. Gradually some of our Indian scholars supported with this interpretation “ *Heenam Dushyateati Hindu* ”. By this, “ Hindu ” means great men. Then, the Arya Samajists also might have taken that name. “ Arya ” means noble men. But the founder of the Arya Samaj, Dayananda Saraswati, wrote a book called “ *Satyahardha prakasa* ” in which he had given some interpretations on Vedic and Shastric quotations, through them he condemned Hinduism, but I do not know whether they are the correct and complete



interpretations as those given in ancient times by Vedaranya and Sayanachariar. This Bill wants to legalise inter-caste or inter-religious marriages. My Honourable friend, Dr. Khare, has brought forward this Bill. Like this Bill, Saint Babu Dr. Bhagavan Das introduced a Bill which comes shortly. If they follow the Vedas and Shastras, they cannot do like this. The Vedas and Shastras say :

“ *Jyathi Bhrashta Matha Bhrashta, Bhrashta Nareacha Satikulam, Satatam Narakayanti, Papakarma Phalam Vrajati.*”

“ Whoever spoiled religion or creed and woman's chastity of caste, must go to hell.”

If you do so, you spoil the Hindu religion or any religion. Manu says :

“ *Jyathyanthara Vivaheana, Jyayatheo Varna Sankaraha.*

*Sankarotparna Varnanam, Anarhma Karma Machareat.*”

“ If inter-caste marriages are introduced, religion will be spoiled.”

If religion is spoiled, some non-religious and non-caste persons will be born. They have no right to do *Karma*. Through them *Karma* will be spoiled, and, as you know, *Karma* is the fundamental principle of Hinduism. Without *Karma* there is no Hinduism. If Hinduism is spoiled, then Arya Samaj also is spoiled. This will be very dangerous. Manu says :

“ *Karma Kanda Vinasyamthi, Luptha Pindothaka Kriya, Gachyatheo Narakayanti, Pitru Devata meadrusam.*”

If you spoil *Karma*, even your ancients will go to hell. Through this they can go to *naraka* or sin. The same thing is repeated in Gita. Times have changed and civilisation has changed, mentalities are also changed. So many races have come to India. I do not wish to define Hinduism. It is not my business, but I do not want to spoil the religion. India has been called Bharatvarsha or Bharatkhandha or the land between two mountains and two oceans :

“ *Vindhya Himalaya madhya, Adhato Sagara Dwayam*

*Yeatat vyapta Maha Deshah, Bharatakhanda Prasadiah.*”

In Persian, it is said that Hindu means servant, and if we read the history we find that foreign people came to India, and, in order, to insult the people, gave this name. For instance, if we write a letter, we will use “ Maharajah ” and “ Sreeman ”, which mean Lord and Noble. Foreign etiquette is obedient servant. Therefore, we are not servants, though our Raj had gone. The Arya Samaj has only recently started in India. They say that they are a part of Hinduism. I do not know how they claim to be a part of Hinduism. They believe in “ Satyarth Parkash ” which is their book. They condemn many of the laws of the Hindus, and, simply for the sake of this Bill, they come before this House and say that they are part of Hinduism. I do not know how they can say it. They believe another religion. They believe ten commandments. I do not know what is meant by ten commandments and one of them says that if a woman has no children, she can resort to adultery. How can this be supported by Bharateayas. Bharateayism is a great, pious, holy and peaceful religion. Like these evils and immoral marriages they will never want. With these words, I support Mr. Bajoria's amendment.

Dr. Bhagavan Das (Cities of the United Provinces : Non-Muhammadan Urban) : Sir, I oppose my Honourable friend, Mr. Bajoria's amendment. I cannot understand his insistence upon a definition of the words "Arya Samajist". It seems to me that when a well recognised minority community seeks the help of the legislature in order to be enabled to live its life in its own way more fully and smoothly, the legislature ought to give to that community such help, except in so far as that help may be likely to injure the just rights and interests of any other community. The Arya Samajists are a well recognised body numbering something like 10 lakhs according to the last census. Mr. Navalrai instanced one case from his own experience in which some difficulty had been felt in a certain law suit, because it was doubtful whether one of the persons concerned in that law suit was or was not an Arya Samajist. But the law Courts and the judicial officers exist just for the purpose of dealing with such difficulties. The most carefully worded and the best drafted laws that exist on the Statute-book are always giving rise to litigation, and each case has to be decided on its merits by the Court concerned. If Mr. Navalrai could have given not one instance but even a hundred instances, that would not have been sufficient reason for insisting upon the definition of the words "Arya Samajist". As the Leader of the House has pointed out, and as has been made clear by many other colleagues, there are laws existing on the Statute-book which deal with Hindus, Muslims, Christians, Parsis, Buddhists, Jains and Sikhs, and in no case has it been found necessary to define any of them. Why should it be necessary to define the "Arya Samajist"? If Mr. Bajoria or any of the supporters of his amendment could make it clear to the House that the absence of such definition would cause serious harm to the just interests of any other community, then there would be good ground for accepting his amendment or even for throwing the Bill out. The other day Sir Muhammad Yakub said that it was very easy to define Muslim. He said that belief in the Kalma was quite sufficient to mark out the Muslim. I do not know any Arabic, but I have learnt from my learned Maulvi friends that that is very doubtful. The first part of the Kalma is common to the heart of all the great religions; and the second part of it, I have been told by those learned Maulvi friends, is not essential and indispensable for a Mussalman to believe in; also, the second part of the Kalma does not contain any word which makes it clear that the Prophet Muhammad is the *only* prophet sent by God to teach humanity. There are other prophets. There have been other prophets. Indeed the prophet Muhammad himself has plainly declared over and over again that there are other prophets. He has said :

" *Innahu la-fī zubūr-il-awwālin.* "

" That which I am teaching you is to be found in the teachings of my predecessors also " ; and, as a matter of fact, the first part of the Kalma is repeated at least 10 times in the book of Isaiah. The prophet Muhammad has also said : " *Le kullé qawmin hād* " : " God has sent teachers to all races ". He has also said : " *Lā nofarriqo bainā ahādīm min rusuleh* ". " We make no difference between the prophets ", that is to say, all are to be honoured equally. Now if this be so,—as I said, I do not know Arabic, but I have learnt this from my Maulvi friends—then it is clear that the second part of the Kalma does not say that the prophet Muhammad is the only prophet. He is one of the greatest prophets, no doubt, and this

I myself sincerely believe. I can therefore sincerely and conscientiously repeat the Kalma and claim to be regarded as a true Muslim while at the same time remaining a Hindu also. In these circumstances, Sir, seeing that the definitions of such denominational names are so difficult, I think the House should throw out Mr. Bajoria's amendment. If I am not very much mistaken, the current conflict between the Ahmadiyas and the Ahrars, which has been disturbing the whole of the Punjab at least, for a long time now, turns mostly upon the right interpretation of the second part of the Kalma. The Ahmadiyas do not regard the prophet Muhammad as the final and the only prophet. In view of such facts, it seems to be perfectly clear that it is very difficult, almost impossible, to define such denominational names, and that in any case it is absolutely unnecessary to define the term "Arya Samajist" in the present Bill. Sir, I oppose the amendment.

**Mr. M. S. Aney** (Berar Representative) : Sir, the speech which we have listened to with great respect just now has prompted me to rise in my seat and I shall make a few observations. I know the difficulty of defining a thing like "Hindu", "Arya Samajist", "Sikh", "Jain", "Muhammadan" or anybody else, but as my Honourable friend, Mr. Satyamurti, observed other day in his very eloquent speech on this Bill, that there are occasions when it becomes necessary to understand what we do and imperative to define what we mean. Now here some Honourable Members have come before this House and urge upon it to make a certain law,—in order to validate certain kinds of union between persons who call themselves "Arya Samajists". The Bill is for this purpose. Now an Arya Samajist is a Hindu. That point may also be conceded; notwithstanding the learned dissertation of my Honourable friend over there, I maintain that an Arya Samajist is a Hindu in every sense of the term. About that, there is no doubt. Now for the purposes of this Bill one thing is necessary. We have to distinguish an Arya Samajist from the major class of Hindus. We have to find out who is an Arya Samajist in order to see whether a proper person is getting advantage of this Bill or not. Suppose a marriage between two persons of different castes or religions and of opposite sexes (Laughter) takes place, and for one reason or another the legality of that marriage is questioned in a Court of law by somebody who urges that this marriage is invalid. Now the married persons will say, "we are Arya Samajists, and therefore, although under the ordinary Hindu law this marriage between us on account of its being an inter-caste marriage is an invalid marriage, we are Arya Samajists and therefore our marriage is valid". That is what they can say. The other person who opposes them says,—"they are not Arya Samajists". You may avoid coming to a decision on this question here, Sir, but it is not that this question will not arise at all in connection with a marriage of this kind. Now if you do not decide it, the Court will have to decide it, and what shall be the criterion for the Arya Samajist to prove in the above case that the persons who married were Arya Samajists at the time of marriage? They are avoiding the issue today. They think, "if we try to define it, there will be so many difficulties", and probably the Bill which they want to see passed today may not be passed; in fact some of them may even be repenting that the motion for circulation which I had moved was not accepted by them, because that would have given them sufficient time to consider all these points. It is not true that the definition of Arya Samajist is not necessary, for anybody to understand to whom this law applies. The definition

[Mr. M. S. Aney.]

given by my friend, Mr. Bajoria, is to the effect, "Arya Samajist is a person, who is a member of any Arya Samaj". What is an Arya Samaj is a different thing. I remind the House of what my Honourable friend, Dr. Bhagwan Das, for whom I have got a great reverence, has just said. He observed, that an Arya Samaj is a recognized body. That is perfectly true. So the membership of any Arya Samaj must also be a recognized and recognisable thing. If the membership of any Arya Samaj, which is a recognized body, is something of an undefinable nature, then I believe that we are creating a great difficulty as in that case, an "Arya Samajist" will denote something which is of a very elusive nature, and incapable of definition. We are not legislating for those whose identity we cannot trace but for those who exist in this world,—a concrete and tangible thing, not an intangible thing ; we are legislating for the benefit of definite members of a fraternity whose concreteness will have to be proved in a court of justice after going through conflicting pieces of evidence and according to the discretion of the judge. Are you going to have the status of a member of any Arya Samaj dependent upon the discretion of the court which varies like chancellor's foot, the varying whim of the judge, before whom such a case will go, or are you prepared to ask the Arya Samajists now to know precisely who they are and how best they will like to describe themselves ? You must know what an Arya Samajist means. My friend says that he cannot define the Arya Samajist, he virtually admits in my opinion that he does not know for whom he is legislating.

**Bhai Parma Nand** (West Punjab : Non-Muhammadan) : There are cases which come before the court. There are cases of doubtful marriages among the Hindus and the Muslims. The court decides on a matter of fact by means of evidence. Therefore, in this case also the court will take the evidence of both parties into consideration and decide the matter.

**Mr. M. S. Aney** : I am perfectly content to accept my Honourable friend's position. The fact is that today we are not in a position to define this thing. That is the position.

**Bhai Parma Nand** : I do not see any need ; there is no need of defining it.

**Mr. M. S. Aney** : My difficulty is this. I do not say that there is no need of a definition. I can understand the difficulty of defining it and the cause of the difficulty. I am prepared even to give up the point but when somebody gets up and says that it is unnecessary to define that, I do not entirely agree with those persons. If we can define it, we must make an attempt to do so and we should not leave it to the court to define it later on. After all, some criterion will have to be given to the court, some data will have to be placed before the court to enable it to come to a conclusion, that a particular person who satisfies certain minimum requirements can be really termed an Arya Samajist. The object of a definition should be to make out that such and such a person has joined the Arya Samaj on a particular date, that his name will be found in a register of the initiation ceremony, or something like that, or that he is born of parents who were at the time of his birth Arya Samajists themselves. If that is so, can you not conceive of all those conditions and circumstances and prepare a definition so that the point may not be left entirely for investigation and decision to the discretion and resourcefulness of the court ; and after this is conceded, the other points which would arise is whether you regard the period

of one year, three years, six months or a shorter one as the proper period for the recognition of any person as a member of any Arya Samaj for the purpose of this Act. Or whether you may like to eliminate the point of time altogether from the definition. You may eliminate the period of one year if you like. I do not mind the length of the period. But there should be no objection to accept what my Honourable friend, Mr. Bajoria, suggests that a person who is a member of the Arya Samaj, he is an Arya Samajist for the purpose of this Act.

**Dr. N. B. Khare :** How would you define the Arya Samaj ?

**Mr. M. S. Aney :** I take it that the Arya Samaj is a recognised body.

**Dr. N. B. Khare :** My question is how an Arya Samajist is to be defined. Your view is that anybody who is on the register of the Arya Samaj is an Arya Samajist. Then the question arises what is an Arya Samaj ?

**Mr. M. S. Aney :** I was helping my friend more than he has been able to help me. I was accepting the position which my Honourable friend, Dr. Bhagwan Das, has taken up, namely, that the Arya Samaj is a recognised body existing in this country for the last 60 years and more. That is an established fact which does not stand in need of any demonstration at all. If my friend wants a definition of Arya Samaj also, he is at liberty to give that definition. I have no objection. But you should have no objection in accepting the definition of an Arya Samajist which my Honourable friend, Mr. Bajoria, has suggested.

**Dr. Bhagavan Das :** May I ask a question ? Do the structure and the grammar of the English language themselves make it self-evident that "Arya Samajist" means a member of the Arya Samaj ? An Arya Samajist can mean nothing else than one who is a member of the Arya Samaj by the nature of the English language itself.

**Mr. M. S. Aney :** A matter may be self-evident to the linguist, but sometimes it is better to do a thing at the risk of redundancy rather than to leave it for somebody else to interpret and decide. If an Arya Samajist evidently means one who is a member of the Arya Samaj, then there should be no difficulty for my friend to accept the definition of my friend, Mr. Bajoria. I can understand if he objects to the length of the period mentioned there.

**Bhai Parma Nand :** Just at the time of marriage he can go and get himself registered.

**Mr. M. S. Aney :** He must be a regular member of your Samaj at least a day previous to marriage and your Samajists must be prepared to say that he is a member of your fraternity. In other words, he must be a *bonâ fide* Samajist. That is the meaning of it and that can be made perfectly clear by having some definition. If you find it too difficult as the Honourable the Law Member said, then you are giving up the thing in despair. You think that it is rather difficult to define it. The amendment of my Honourable friend is perfectly clear, and it is for you to say whether you should accept it or leave it in this indefinite way and leave it to the court to find out who is an Arya Samajist for the purposes of this Act. Sir, I support the amendment.

**Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) :** Sir, I am very sorry I have to differ from

[Pandit Krishna Kant Malaviya.]

the Leader of my Party. I may tell you, Sir, beforehand that I am not an Arya Samajist, and there is no likelihood of my ever becoming an Arya Samajist, because I believe in principles in which the Arya Samaj does not believe. All the same, I do not see the necessity of accepting the amendment moved by my Honourable friend, Mr. Bajoria. I am not at all convinced why the Arya Samaj or the Arya Samajist should be defined. I feel that in this year of Grace, 1936, the faith and the religion of the man should be confined between the individual and his God. He should be free to approach his God in the way he likes most without being compelled to perform any conversion ceremony of any sort in this world. The religion of a man should not be the concern of anybody else in this world. For purposes of faith and religion, it should be sufficient for the world that the man declares himself either an Arya Samajist, a Sanatan Dharmi, a Muslim or a Christian. The mere declaration of the man that he belongs to such and such faith and that he wants to approach the Creator in his own way should be enough to satisfy the world at large. I feel that if he declares that he believes in the teachings of Swami Dayanand or in the teachings of any other social reformer or a Prophet, this would be enough for my purposes and if it is sufficient for my purposes it ought to be sufficient for the purposes of others also. So far as marriage is concerned, I think that that should be the concern of the individual man or the individual woman only. What has the world got to do with it. A man wants to marry a particular woman and that woman wants to marry that particular man, that should be sufficient for the world. Why should they be compelled to go to any people and declare that they belong to this faith or to that faith? I can even imagine a man and a woman of different faiths living as husband and wife. If a man and a woman want to live together and they feel that they can have peace and happiness in that way, it is their look-out, why should others worry about them. After all, whosoever marries will have a few friends; he will not be living in a jungle. He will invite his friends to attend his marriage; there will be a concourse of people to witness the marriage sacrament or ceremony and they will be able to prove in any law court, if occasion arose, that these two joined themselves in union and they declared that they were husband and wife.

**Babu Baijnath Bajoria :** Why not have free love then? If they do not belong to any society, community or religion, what will happen?

**Pandit Krishna Kant Malaviya :** I am not living in a jungle; I am living in a society. I said that if a man wants to marry a woman and a woman wants to marry a man, they will have friends in this world. They will invite them; they will feed them; they will give them dinners and luncheons; and every one of them will be able to prove in a court of law that these two persons decided to marry and they became husband and wife.

Sir, my Honourable friend, Mr. Umar Aly Shah, with his expert knowledge of our Shastras made us believe and threatened us that the sons of such and such marriages will be thrown into hell and that if such marriages are allowed, society will go to dogs. He also said that Manu has said this and said that. May I tell him, in all humility, bowing down to his knowledge, that Manu also ordained that the Brahmans could marry the girls of Kshatriyas, Vaisyas and Sudras? May I tell him that Manu

also declared that a Kshatriya could marry not only the girls of Kshatriyas, but also the girls of the other two castes and so on and so forth. These laws are contained in our Shastras and in the laws of Manu, anybody can read them. Leaving aside what Manu said 5,000 or 10,000 or even a lakh of years back, we are concerned more with the present and the future which is to come. Times have changed and so have our necessities and requirements of life. Even in our later day history it is recorded that Chandragupta married the daughter of Selucus; we are told that Vikramaditya of Ujjain married a Chinese Princess. There was no upheaval of society then, there was no revolution and so far as I know their sons and grandsons ruled and they were not sent to hell, nor did the society then existing ostracise them.

**An Honourable Member :** How do you know they were not sent to hell ?

**Pandit Krishna Kant Malaviya :** Because we remember them now with respect, we are proud of them now and because we do not now think that they did any infamous act and because we praise them even today. I may point out to my Honourable friend that little knowledge is a dangerous thing, I may point out to him, Sir, that before the days of Mahabharat,—in prehistoric times the institution of marriage as such did not exist. It had a very late origin. My Honourable friend, Dr. Bhagavan Das, may well point out that even just before the Mahabharat, a disciple went to his guru and wanted to have his thread ceremony performed. The Guru said, "well, what is your *gotra* ? From which family are you born and what is the name of your father". The young boy did not know the name of his father and so he went home to find out from his mother the name of his father. The mother said "it is a very difficult problem for me to tell you the name of your father". The Guru also found it difficult to find out the *gotra* of that boy. So he decided that in order to establish the identity of one's father, the institution of marriage should be brought into existence. In this hoary land of ours we had polyandry, polygamy and what not and we have theological and scientific explanations for all that. However, whatever it may be, the question of marriage should be the concern of the man and the woman and not the concern of the society at large provided they do not by their actions take away the liberty of others or injure the interests of others.

**An Honourable Member :** What about succession ?

**Pandit Krishna Kant Malaviya :** That can be settled.

**An Honourable Member :** Why not then have free love, instead of marriage ?

**Pandit Krishna Kant Malaviya :** Free love would be much better than this enslaved love which we have now, and also better than no love which we have now. I therefore feel, Sir, that there is no necessity for any man to register himself a member of any Samaj, for the sake of marriage, even if he believes himself to be an Arya Samajist and even if he is a follower of Dayanand Saraswati. So far as the question of marriage is concerned, I have already said that the marriage ceremony will take place amidst some people and there will be people enough to come forward if there is any question in a court of law to prove that these two people were married. I, therefore, oppose the amendment moved by my Honourable friend, Babu Baijnath Bajoria.

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I find that both my Honourable friends, Mr. Umar Aly Shah, and Babu Baijnath Bajoria are unnecessarily raising a huge cry for nothing. The main principle of the Bill has already been accepted. The main principle of the Bill is that if marriage is celebrated, either if it has been celebrated before the coming into existence of this Act or celebrated hereafter, the rights by way of marriage or inheritance or succession ought not to be impeded. This Bill ought not to be in such a way that the religious practices of the Hindu community as a whole will be destroyed. The promoters of this Bill who form a huge community in Northern India owing spiritual allegiance to Swami Dayanand Saraswati have not permeated in the south into such huge proportions and there is no clamour from the Southern India that such marriages should be recognised. The courts are slow to move in the matter of reform. In spite of this the founder of the Arya Samaj had stated that caste is not to be decided by birth, but by *samskara* and this theory has not yet been accepted by courts. As far as I am aware, the Arya Samajists claim to be truer Hindus unlike the Hindus of the later day to which Hinduism we all belong. They say that their religion is a direct corollary of the Vedas. They do not accept some of the Smritis of later day commentators. They believe that every one is born a Sudra and by *samskaras* alone he becomes a Dwija. All people to whatever caste they may belong are sudras by birth according to the Arya Samajists. Even I, before my thread marriage ceremony, was a sudra. It is only after the *samskara*, that all of us are Brahmans :

“ *Janmana jayate sudra,*

*Samakara dwija iti uchyate.*”

It is not that this was introduced into the Smritis by Swami Dayanand Saraswati. It has been there through ages. It is the *Samskara* that gives real birth to a man. Before the *samskara* or before the thread ceremony takes place, everybody is a sudra. Before that, if a marriage takes place without *samskara*, I am afraid strictly speaking and strictly interpreting the ancient texts, it would not be proper kind of marriage that ought to be accepted by the courts or by the Hindu religion. Now, Sir, it is accepted that even today even after the spread of Arya Samajist creed, if a person belonging to another fold gets himself converted into Hinduism, he becomes a Hindu of the lowest class of society. I would ask my Honourable friend, the Mover of the amendment, that a person who belongs to the Christian religion or the Moslem religion, if he becomes a Hindu, is there any register maintained showing that he has got himself converted into a Hindu, and if he says he has got himself converted today if he dies tomorrow, what will be the succession to him. Would it go back to the collaterals of the Christian faith or his brothers who still persist in the Christian community or of the Muslims ? Will there be a new kind of succession ? As far as I am able to understand the law, there would be a different kind of succession altogether. No doubt he would be entitled to inherit to his parents. But there would be a different thing. After all, he is converted. Now, Sir, no register is maintained for conversion. I believe after all whether you take the Hindu form of marriage or another kind of marriage, even the marriage



which is performed on the basis of the *samskaras*, that is, as one of the *shorasha karmas* or the 16 *karmas* prescribed by the *shastras*, all that is done is only for the purpose of evidence. A man and woman must agree or where a woman is not able to agree on account of her age, want of sufficient maturity of understanding, and it is the father that settles the marriage on her behalf, for the rest the rites that take place are *agni shakshi* which means that *agni* is only the witness. Formerly when there were no registers, no registration offices and no Registrars of births, marriages and deaths, etc., *agni* was the *shakshi*, the persons invited were the witnesses. Today I would say to Mr. Aney that there is absolutely no difficulty. After all we are trying now to say that if marriages are celebrated between two persons who profess the Arya Samajist creed or faith even if they may belong to different castes, the marriage should be valid, as valid as if they belonged to the same caste. Under the existing law any such marriage is void. It is unfortunate that such marriages were not void or not held to be invalid a number of years ago but later commentators like Raghunandana and Kamalakra imposed certain restrictions which have been unfortunately accepted and have today become the Anglo-Indian law. But for them, the *rishis* of today, I am confident that had Dayananda Saraswati been left alone he would have been as good a *rishi* and would have added to the *smritis*, and we all of us, Hindus as well as Arya Samajists would have been following him,—he is such a venerable person. I, therefore, say that no legislation is necessary, no Arya Samaj is necessary. He may be a follower of Dayananda Saraswati, he may be a *pucca Arya Samajist* following a creed without being a member of a particular samaj or a particular society or a particular creed or an association as the Madras Association or the Bengali Association or the Punjabi Association. I am afraid Arya Samaj is sought to be degraded to a small association of ten or more persons. The Arya Samaj as I understand it believes that every person is born a *sudra* and by *samskara* or the thread marriage ceremony he becomes a *dwija*. Now there may be difficulty as to whether a woman is married or not. The difficulty arises not because of succession or inheritance. The natural laws have all their own way ; they have got married in a strict sense or live as husband and wife or come together otherwise. The general law has its own courts. But the question arises when there is the production of some beings who trace their relationship to the one or the other. When succession takes place or they have to inherit, difficulty arises. Then we have to see whether there is sufficient evidence on which any reliance can be placed to find out whether this inter-caste marriage is right or wrong, to what community or caste these people belong and to what religion they belonged. I would say, as I understand it, that there cannot be marriage among Arya Samajists unless the marriage is done before *agni* and before the *saptapati* is completed. The Arya Samajists become such by the thread marriage ceremony which is the first *samskara*. After the thread marriage ceremony he becomes a *dwija*.

**Babu Baijnath Bajoria :** How does he become an Arya Samajist ?

**Mr. M. Ananthasayanam Ayyangar :** He is a Hindu. If a man of higher caste marries a girl of lower caste and performs the marriage

[Mr. M. Ananthasayanam Ayyangar.]

according to the *dwija* rule, that is, before *agni*, and takes her seven steps round the *agni*, on a stone, places her feet and hits them up and before *agni* acknowledges her as his wife and swears that he will be her husband and she exchanges some of these, then the marriage is completed. This is to be done even with respect to Arya Samajists. I know my friend says this *samskara* is necessary. The other day our friend, Bhai Parmanand, said that the *shorasha samskaras* are necessary, the *shorasha karmas* are necessary. The *shorasha karmas* are, *jata karma*, *nama karana*, *chaula*, *annaparasana*, *upanyana*, *vivaha*, etc. It is unnecessary to trace all the sixteen. As soon as a child is born, there is *jata karma* for the child. On the day he becomes an Arya Samajist, there is *namakarna*, i.e., his name is given, *annaparasana* is the rice-giving ceremony, *chaula* is boring the ear and *upanyana* is the thread marriage ceremony. Then there is the marriage. I understand that among Arya Samajists marriage is to be celebrated only before *agni*, *saptapati* is a necessary ingredient. Are we now to legislate that *saptapati* is necessary, that the husband and wife must walk round the fire? Is all that necessary: Is it necessary to lay down that I am entitled to some person? Is it said anywhere that I must do it? The courts must recognise that these people are Hindus and according to Hindu rites the marriage is celebrated. Hindu rites are many, but I understand that so far as Arya Samaj is concerned, they have accepted this particular form and the marriage is celebrated in that particular form. We are now deciding whether the marriage is true or not; we are now trying to find out whether a man is an Arya Samajist or not. The matter comes into dispute or the matter arises for decision when a marriage takes place, and no marriage can take place unless it is celebrated before *agni* and before *saptapati* is celebrated. That is sufficient evidence and no further evidence is necessary. I say there are a number of inconveniences and difficulties if we are to accept the amendment proposed by my Honourable friend, Mr. Bajoria. An Arya Samajist must be a member of an Arya Samaj. I do not know if there are institutions everywhere. There may be only one man in a particular village; why should he register himself as an Arya Samajist? About younger boys, are they to be members or not of that Arya Samaj? Is it after all writing their name that makes them Arya Samajists or their following certain tenets and other things? My friend can only say that it is only a piece of evidence. If there are other pieces of evidence that can be devised and the marriages can be proved to have taken place, that itself is a piece of evidence. My Honourable friend would not insist on that kind of evidence. After all it is not as if it is a piece of *samskara* that my Honourable friend wants to impose and wants to put there on the *saraswatis* by the addition of another *samskara*. He will kindly see whether the amendment he has proposed meets the situation. Why should it be for one year? He may be in a particular village far remote from civilisation. There may be a register opened by two or three persons as Arya Samajists and he may enter it there. If you state it should be registered in a public office what does it matter? After all it is a piece of evidence. Without that piece of evidence, without any writing or without being a member of the Arya Samaj, if he is already there, why should you require that he should be there for one year? After all it may happen that a man and woman might like to get together, may choose this form and faith to enable them to get married. One member of a

superior caste may not be able to marry a girl of an inferior caste or *vice versa* under the existing Hindu law. Are you driving them to another religion to declare that they do not belong to the faiths to which they really belong? If my friends, Mr. Umar Ali Shah and Mr. Bajoria, have really any faith in divinity and in their religion, I would ask them not to mix up too much of religion with the practical affair of marriage. As the Honourable the Leader of the Opposition has been telling us on the floor of the House, let us not mix up religion with politics. A man and a woman can come together at present if they will only declare under the Civil Marriage Act that they are married. That is enough. Why should my friend, Mr. Bajoria, think that he alone is a believer in Vedas, that he alone is a follower of Bhagwat Gita?

**Babu Baijnath Bajoria** : I never said that.

**Mr. M. Ananthasayanam Ayyangar** : Therefore, do not impose restrictions. Remove restrictions.

**Babu Baijnath Bajoria** : If there are no restrictions, there will be chaos in society.

**Mr. M. Ananthasayanam Ayyangar** : I don't think any one of us is entitled to say "You shall be an Arya Samajist for one year before you enter into a marriage as an Arya Samajist". What right have we to say so? After a time that man may get into touch with another form of religion and adopt it. Therefore, for the purposes of giving civil rights to a marriage, I would say that forms of marriage are not necessary; registers are not necessary. The form that is gone through by the Arya Samajists is quite enough. . .

**Mr. M. S. Aney** : Is my Honourable friend aware that 14 days notice is necessary even under the Special Marriage Act?

**Some Honourable Members** : The question may now be put.

**An Honourable Member** : No declaration of faith is necessary.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Mr. Deputy President, my object in rising to speak on this occasion is to support the amendment of my friend, Mr. Bajoria. As was pointed out the other day, I think it is extremely necessary that a definition of "Arya Samajist" should be given in this Bill. This measure is being enacted for a particular purpose, that is, for the purpose of validating certain marriages. Now, Sir, if it were a general Bill, if it had nothing to do with any particular purpose, I think there would have been some justification for the arguments advanced in favour of not giving a definition, but we find that the framers of this Bill and the gentleman who wanted to sponsor this measure themselves thought that a definition of "Arya Samajist" was necessary in this Bill. Sir, before the Bill was sent to the Select Committee, the draft of the Bill, which

[Sir Muhammad Yakub.]

was presented to this House, contained a definition of "Arya Samajist". I have got a copy of that Bill in my hand, and clause 2 of the Bill runs as follows :

"For the purposes of this Act, 'Arya Samajist' means a person who is a member of any Arya Samaj or within five years of the passing of this Act or within one year of his marriage executes a written document declaring himself to be an Arya Samajist or in terms equivalent thereto, or is a member of the family or a relative, dependent, or a person under guardianship of any person mentioned in clause (a) or (b).....".

So the framers of the Bill themselves thought that a definition of "Arya Samajist" was necessary to be inserted in this Bill. It is really surprising that in the Select Committee this definition was altogether done away with, and then the members of the Select Committee in their Report said that the Bill had not been so altered as to necessitate republication or recirculation. Sir, I think it was altogether a travesty of facts to state that. In fact, the Bill has been so mutilated in the Select Committee that it was extremely necessary to have it re-published and re-circulated. Because, if we compare the two Bills, we find they are altogether different. Unfortunately, as I said, in my previous speech, there was not a single Member belonging to any other religion in the Select Committee except those who wanted this Bill, and in future, I think, great care should be taken to see that when referring Bills of this character to Select Committees, Members belonging to different communities, different schools of thought and different religions are included, otherwise there is a great danger that a measure, which apparently looks quite an innocent thing, in the Select Committee, may be transformed in such a manner as it may become altogether mischievous. ....

**Mr. Deputy President (Mr. Akhil Chandra Datta)** : That is not the motion before the House now.

**Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural)** : Why did you not make this suggestion when referring this Bill to the Select Committee ?

**Sir Muhammad Yakub** : The reason why I did not suggest it then was this. When the Bill was first introduced, in the Statement of Objects and Reasons, there were only two or three lines, and they looked so innocent that nobody could ever conceive that at a later stage poison would be introduced into its tail and the whole Bill would become such a mischievous measure. This is what is stated in the Statement of Objects and Reasons appended to the Bill when it was first introduced :

"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 the sacred Sastras, and as the law administered at present in regard to marriages between parties belonging by birth to a different caste or sub-caste are considered invalid, and as there is a fear that the issues of such marriages being declared illegitimate, and as a large number of such marriages have taken place and more would have taken place had there been no such obstacle, it is necessary to have a law which would give relief to all Arya Samajists. Hence the above law is proposed."

So the object of the Bill, when it was first introduced, was only to validate certain marriages between parties belonging, by birth, to different castes or subcastes of Hindus, and it was never intended to apply to any

person belonging to other religions ; it was exclusively intended to apply to Hindus. Therefore, we thought that this was an innocent measure, it related only to different castes and sub-castes of Hindus, and that it would not interfere with any reforms that other communities may want. ....

**Mr. Ghansham Singh Gupta :** Will the Honourable Member read clause 3 of the Bill ?

**Sir Muhammad Yakub :** I have read clause 3 and clause 4 also. Clause 3 of course was somewhat ambiguous, and it would have created some suspicion, but clause 4 of the Bill, removed the suspicions and now clause 3 also has been deleted. Sir, as I said the Bill, as it has emerged from the Select Committee, is an entirely different measure to what it was when it was first introduced. Therefore, Sir, I submit that in order to remove the misapprehensions in the minds of non-Hindus in the House, it is only fair and just that, in a mixed House, when a question of such momentous importance is raised, care should be taken by the majority in selecting members of other communities also. ....

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : What are the misapprehensions ?

**Sir Muhammad Yakub :** Shall I tell you ? I shall detail all these things when I come to my amendment. Strictly speaking, this is not the occasion to do so. For the present, I shall only confine myself to the point that the definition of Arya Samajist is necessary.

Now, Sir, I shall submit only a few words about the observations made by the revered venerable Dr. Bhagavan Das.....

**An Honourable Member :** Reverend is not a bad word. Revered is equally good.

**Sir Muhammad Yakub :** Or shall I say His Holiness Dr. Bhagavan Das. I am sorry he is not in his seat now. It was really very pleasant sight that after an exhibition of a little knowledge of Sanskrit was made by a Mussalman Member of this House, Mr. Umar Aly Shah, he should have been followed by a Hindu Member of the House, who gave us a little exhibition of his knowledge of Arabic ; but I cannot help repeating the remarks of my friend, Mr. Malaviya, that a little knowledge is a shallow thing, and I may venture to say that both the Honourable Members exhibited a shallow knowledge of Sanskrit and Arabic.

**An Honourable Member :** What about you ?

**Sir Muhammad Yakub :** The definition of Mussalman which I gave, I never said that in our Kalma other Prophets were excluded. In fact, if Dr. Bhagavan Das had a little more knowledge of Arabic, he would have found from the words of the Kalma itself that it did not exclude other Prophets. In fact, the Mussalmans believe in all the Prophets from Adam down to the last Prophet Muhammad, and, therefore, the observations made by Dr. Bhagavan Das and his exhibition of Arabic knowledge were altogether irrelevant and redundant. He was also not quite correct when he said that there are sects and subsets of Mussalmans which did not believe in the second part of the Kalma. The second part of the Kalma is " Muhammad ur Rasool ul Lah ", and there is not a single sect of Mussalmans including Qadianis, Shias or Sunnies who do not believe that Mahmood is a Prophet or Apostle of God. ....

**Pandit Krishna Kanta Malaviya** : Do the Ahmediyas believe that Muhammad was the last Prophet ?

**Sir Muhammad Yakub** : That words " last Prophet " do not appear in the Kalma. My dear friend is again showing his ignorance. I said Muhammad is the apostle of God, and nothing more and nothing less, and the Qadianis also believe in this. So, what is the use of showing ignorance in this House. ....

**Bhai Parma Nand** : Not exactly that.

**Sir Muhammad Yakub** : Exactly that. I challenge my friend to show that there is a single Mussalman belonging to any sect who does not believe in it. I challenge anybody in this House or outside this House. It is no use saying that the Mussalmans cannot give a definition of their own religion. I, therefore, say that for the purposes of this Bill which wants to validate certain marriages—and in fact not only the marriages which will be solemnised after this Bill is passed, but also marriages which were solemnised fifty years ago—it is a novel sort of legislation we have got in this House—I say for the purposes of this Bill a definition of Arya Samajist is extremely necessary and ought to be given in the Bill and the amendment of Mr. Bajoria is really a compromise amendment because in the original Bill it was five years. This is a very moderate amendment, and in order that the Bill may come out in a form which would be acceptable to all sections of the House, the Honourable Members should agree to this amendment.

**Mr. N. V. Gadgil** (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to oppose the amendment moved by my Honourable friend, Mr. Bajoria. I was really surprised when I found two of my friends, Mr. Malaviya and Mr. Ayyangar, one from the north and the other from the south, speaking almost the language of a modern reformer. I had always associated the name of Malaviya with all that is Sanatani in the Hindu religion, in the Hindu community. Therefore, I was glad that things have moved ; and when a Malaviya has moved, we can fairly take it to be an index that a substantial portion of the Hindu community has moved. I quite remember when I was in college in 1918, when a Bill was introduced by Mr. V. J. Patel, who was then a Member of the Imperial Legislative Council, there was a great controversy ; and, as usual with Poona students, there was plenty of egg-throwing. But this House will not be surprised to know that, in the City of Poona, during the last three years, more than a hundred marriages have been notified under the provisions of the Special Marriage Act. The question before the Hindu community is this : are they going to secularise marriages or are they going to stick to the present law of Hindu marriage according to their Shastras ? I find from the objects of this Bill that hundreds of marriages have taken place among the Arya Samajists and as far as I am able to see, according to the rites prescribed by the Arya Samaj scripture ; and yet they feel the necessity that these religious rites are not enough and that is the justification for the introduction of a Bill of this character : they want to secularise these marriages and with retrospective effect.

My friend, Maulvi Yakub, or rather Sir Muhammad Yakub, need not feel surprised because it gives retrospective effect. Only the other day, a Bill was introduced by one of the Government Members to ratify

and legalise marriages which were celebrated under a misapprehension of law at Bangalore. So, as far as retrospective legislation is concerned this is not a new thing at all. In order to legalise marriages it has been found necessary that religious rites are not enough and therefore marriages must be secularised. Personally I have little faith in religious rites and therefore I would like more and more attempts made to secularise marriages amongst the Hindus and the Hindu community. I welcome this and I would welcome still more the other Bill which has been introduced by my Honourable friend, Dr. Bhagavan Das. What is the amendment of Mr. Bajoria? It wants to define an Arya Samajist. It has been found impossible to define a Hindu. As far as I am able to see—and I am sure Bhaiji will not contradict me when I say this—Arya Samaj is a militant section of the Hindu community. If the generic term Hindu cannot be defined, it will be still more difficult to define what is an Arya Samajist. I remember it was in the year 1915 or 1916, the *Leader* of Allahabad invited the opinions of prominent Hindu leaders from all over India requesting them to define “a Hindu”. Nearly three hundred leaders belonging to different schools of the Hindu community responded, and the best definition that could be arrived at was “A Hindu is a Hindu who calls himself a Hindu”. That was the definition given by Rao Bahadur C. V. Vaidya, and that was the definition suggested by Dr. Bhagavan Das. I think if that definition is to be incorporated in this Bill, it is mere tautology. If I remember aright, some difficulty was experienced at the time when the term ‘Parsi’ was to be defined at the time of amending the Parsi Divorce Act; and ultimately the definition adopted was “Parsi is a Parsi Zoroastrian”. If you want a definition of that kind, there is no harm. But what is the implication of defining an Arya Samajist for the purposes of this Bill? The implication is .....

**Babu Baijnath Bajoria** : They want to differentiate themselves from the other Hindus.

**Mr. N. V. Gadgil** : That is exactly the point I am coming to. The orthodox Hindu wants to take them away from the community if he could. The cat is out of the bag.....

**Babu Baijnath Bajoria** : They want to go out of the community, but we do not want to prevent them.

**Mr. N. V. Gadgil** : You may cry yourself hoarse : they will remain Hindus and they will reform the society and they will liberalise the Hindu community : they will not go away ; and when I see Mr. Krishna Kanta Malaviya stating that only two things are necessary for a marriage—a man and a woman, and no Pandit, I think the days of orthodoxy are numbered. Sir, my friend, Mr. Aney, for whom I have very great respect, pointed out certain difficulties about the identity of persons, this, that and the other. Are those difficulties found while celebrating Hindu marriages ?

**Mr. M. S. Aney** : Their validity is never questioned in a court of justice. You are here to validate what you consider to be an invalid thing : that is the main point of distinction.

**Mr. N. V. Gadgil** : If it is only a question of identity of persons, I think the persons can be identified with absolute accuracy. It is not the difficulty of identification or anything of the sort. The real objection

[Mr. N. V. Gadgil.]

is that these people do not want inter-caste marriages in the Hindu community. There we differ. Stating it plainly, you do not want any inter-caste marriages.

**Mr. M. S. Aney :** On a point of personal explanation, Sir. I have repeatedly stated that Hindus are entitled to have inter-caste marriages under the Special Marriage Act. Why do you rob women of the liberal rights which they have under that Act, by passing this Bill which is disadvantageous to them ? You ought to reject this Bill and call upon the Arya Samajists to have their inter-caste marriages under the Special Marriage Act just like the rest of the Hindus ?

**Mr. N. V. Gadgil :** In the interruption of my Honourable friend I find more heat than light. All that I could understand was that the women would be handicapped. I fail to see how. If it is a question of succession, I am sure it is almost the unanimous opinion of those who are here and who are going to sponsor this Bill, that the Hindu law of succession ought to govern and that the children of such marriages should not be governed by the Indian Succession Act. If that provision is made and clause 3 is deleted and some such clause as I have indicated is substituted, I think my Honourable friend, Mr. Aney, should not have any objection. But if he has no objection to inter-caste marriages, I think this is the first step that we can take and the next step would be the Bill that has been introduced by Dr. Bhagavan Das. By defining an Arya Samajist, the result will be that they will be taken out of the Hindu fold, but we want that they ought to be put on the same footing and in the same atmosphere as the generality of the Hindu community. For these reasons, I oppose the amendment.

**Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) :** I intervene in this discussion with a considerable amount of hesitation. I believe from what I have heard during the last two days that the implications underlying my Honourable friend, Mr. Bajoria's amendment are much wider than most of us have been led to believe. I do not believe in mincing matters. I wish that Members of this House who take such a deep interest in this Bill were perfectly clear and concise in the expression of their opinions. My Honourable friend who has just sat down, I believe, came nearest to the point. There are some in this House who fear that men and women of different castes in the Hindu community who cannot today contract a valid marriage will take advantage of this Bill by becoming Arya Samajists simply for the purpose of contracting a valid marriage. They will not be *bona fide* Arya Samajists, they will not conscientiously be converted to the Arya Samajist faith. They will become Arya Samajists merely for the purpose of contracting a valid marriage. My Honourable friends desire that such men and women of different castes in the Hindu community should not be enabled to contract a valid marriage merely through the instrumentality of this Bill. So far as I can make out, my revered friend, Mr. Aney, who does not wear a beard and Mr. Bajoria do not object to *bona fide* Arya Samajists contracting valid marriages. But they believe there are grounds for apprehension that men and women of different castes in the Hindu community who cannot today contract valid marriages will be enabled to do so by shamming to be Arya Samajists. That, in short, I believe is the case of my Honourable friend, Mr. Bajoria.



He tries to appease his apprehensions by bringing in a definition of an Arya Samajist. I regret I cannot see, even if it were possible to define an Arya Samajist, how it is going to prevent Hindu men and women of different castes pretending to be Arya Samajists and going through the ritual, if necessary, in order to contract a valid marriage. Those Hindu men and women of different castes who desire to marry will find ways and means of doing so even if this Bill does not become an Act, and I am afraid, speaking with perfect impartiality, not being a Hindu, you will not be able to prevent it. Even if a definition is possible, it is certainly not the method of attaining the object which my Honourable friend, Mr. Bajoria, has in view. Therefore, he must find other ways and means. I agree on principle that no man and woman should be forced to take to a religion which they do not wish to do, or a religion in which they do not believe conscientiously, merely because that enables them to contract a valid marriage. I think that is a very wrong position to take up for any man and woman or to force any man and woman to take up. I would be the last.....

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions : Muhammadan Rural) : You forget love marriages.

**Sir Cowasji Jehangir** : I leave that to you. (Laughter.) Sir, I will be the last man to see a Bill brought on to the Statute-book which would enable people to sham and humbug in order to be able to contract a valid marriage. I know that they are anticipating Dr. Bhagavan Das's Bill and a great deal of this discussion is in anticipation of that Bill. I do not desire to take part in any discussion with regard to that Bill ; it is for the Hindus themselves to discuss that matter and decide it amongst themselves. But when it comes to an enactment whereby any man and woman of any community can contract a valid marriage which they cannot do today, by simply becoming Arya Samajists, it is time to see that the Bill is so framed that such people shall not take advantage of it. I am not a lawyer, I leave it to my Honourable friend, the Leader of the House, an eminent lawyer, but I think he should see that people will not take advantage of this Bill to contract valid marriages, simply by becoming Arya Samajists in name. That is all I have got to say, Mr. Deputy President. I again repeat that Mr. Bajoria's object will not be served by defining the word Arya Samajist even if it is possible in law.

**Dr. G. V. Deshmukh** (Bombay City : Non-Muhammadan Urban) : Are you frightened of the Parsi community ?

**Sir Cowasji Jehangir** : I am not frightened for the Parsi community at all. I am talking on this question from a very much wider point of view than the communal point of view.

**Dr. G. V. Deshmukh** : I am glad to know that.

**Sir Cowasji Jehangir** : I am talking from the moral point of view, and I am sure my Honourable friend, Dr. Deshmukh, does not want a Bill to go on to the Statute-book which will enable people of different communities.....

**Dr. G. V. Deshmukh** : Will you speak for yourself and not be sure of what I am going to say or do ?

**Sir Cowasji Jehangir :** My Honourable friend, Dr. Deshmukh, is so uncertain of his principles that I cannot even attribute to him a principle which every moral man ought to support.

**Dr. Bhagavan Das :** On a point of information, Sir. May I ask my Honourable friend, Sir Cowasji Jehangir, if there are any Acts on the Statute-book which ensure that every conversion shall take place after the candidate for conversion has made a deep study of the scriptures of his previous religion and the scriptures of the new religion to which he wants to become a convert. What safeguards does the Statute-book supply against "sham" conversions to other religions than that of the Arya Samaj ?

**Sir Cowasji Jehangir :** May I say we are not discussing conversion just now ? We are talking of marriage and we are talking of sham conversions to enable one to contract a valid marriage. There is no question of conversion. It is a question of having a conversion with a deliberate object, a materialistic object. Conversion is a question of one's conscience and one's religion. Here is practically a marriage with what I would call a materialistic object, for want of a better term to explain my meaning. They are taking advantage of conversion in order to contract a valid marriage. That I think ought to be obviated if possible. I know that it is possible under other conditions which prevail today. But let us not add to them if possible, and let us appease the apprehensions of those who feel and have expressed those feelings. As I have explained, I would be the last to prevent any legislation going on to the Statute-book which would enable genuine and *bonâ fide* Arya Samajists from contracting valid marriages. That is the object of the Bill and that is the object which I would support wholeheartedly. (*An Honourable Member* : What is a *bonâ fide* Arya Samajist ?) A man or woman who becomes an Arya Samajist from conscientious motives. He or she does not become an *Arya Samajist* simply because he or she wants to marry a woman or a man. That is what I mean by *bonâ fide* Arya Samajist. (Interruptions.) It seems to me that this matter is getting very controversial and I do not want any more heat to be imported into the discussion. Let us discuss it coolly and quietly. I do not see the reason for this heat. I do not see why the communal issue should be raised so prominently in this way. This is a *bonâ fide* measure for the advantage of the Arya Samajists. Let it be that. Let it be a measure which will enable *bonâ fide* Arya Samajists to contract valid marriages. Let us not mix up this simple question with all sorts of other questions. If we do, we shall not get very far. At the same time, it is up to my friend, Mr. Gupta, to appease the apprehensions of those who feel—and I understand there is a wide apprehension in the country—that different castes in the Hindu Community will take advantage of this Bill to contract valid marriages, which they cannot do today. Let us leave aside Dr. Bhagavan Das's Bill. We shall deal with it on its merits when it comes up. It is not before us today. Why should we anticipate it. Why should anybody allow it to be anticipated ? That is my point. Therefore, I would appeal to this House to discuss this matter coolly and appease the apprehensions of those people who feel that this measure may be taken advantage of by those who are not genuine Arya Samajists.

**The Honourable Sir Nripendra Sircar** (Law Member) : The last speaker warned us not to get heated. I can get heated over managing agents but not over this Bill. My complete ignorance of Arabic and my knowledge of Sanskrit being not too profound secures for me a safe position. My Honourable friend, Sir Cowasji Jehangir, talked a lot about *bona fide* Arya Samajists. If we follow the principle up, many a marriage between Christians would become invalid because the parties are not *bona fide* Christians. But that is not probably what he meant. What he meant was that this Act will be taken advantage of for the purposes of what he says a secular gain, such as marriage, or it may be secular loss. Be that as it may, has my Honourable friend realised that today under the law that can be done ? Does he know that at least four times cases have come up to the Calcutta High Court where a Hindu woman has abjured her faith, become a Muslim for the purposes of marriage and courts have held they cannot go into the question of motive, saying that if at the time of marriage they were Muslims, it was a good Muslim marriage. Therefore, Sir, you do not prevent it. You may drive them to become Moslems, you may drive them to become Christians but they will have their valid marriages if they are not tied to the fold of the Sanatanist Hindus. That cannot be prevented. Sir, in the Calcutta High Court, a matter has come up which may be surprising to the lay mind. The case is *sub judice* in the sense that an appeal has been filed but the facts are shortly these. A Hindu woman wanted to get rid of her husband. This is a case from Jessore which was reported at great length in the papers. She followed what has now become a fairly popular device. She wrote to her husband through a pleader " I have become a Muhammadan, and, therefore, either you become a Muhammadan and come and live with me, or the marriage will come to an end ". The result was that the husband refused to become a Muslim and she succeeded in getting the marriage dissolved. Now, we come to the next step. Having got rid of the Hindu husband by means of this alleged conversion, which was simply for the purposes of this marriage, she gets reconverted to Hinduism and that having been done she marries again a Hindu, so that the *plus* and the *minus* equalise each other. Sir, what the High Court will do I do not know but the learned Subordinate Judge in a judgment which occupied eleven columns of the *Amrita Bazar Patrika* has come to the conclusion that that was a perfectly valid marriage. The point I am making is this, that if at the time of marriage the two persons profess either the Moslem or the Christian or the Hindu or the Arya Samajist religion, that ought to be enough. I think my friend knows of cases where Hindus have been converted to the Muhammadan faith a couple of hours before the marriage. Are those marriages valid ? Yes. Why are they valid ? because at the time of the marriage they were both Muslims. You cannot go into the question of *bona fides* and *mala fides*. Whatever you do, you cannot stop what you think to be a danger. Then, Sir, one word more about what my friend, Sir Muhammad Yakub, said. If there was the slightest ground for his very unjust suspicions that this Bill will affect the Muslim community, I would not have supported it at all.

**Sir Muhammad Yakub** : Then why not accept my amendment ?

**The Honourable Sir Nripendra Sircar** : Yes, I will deal with it at the proper time. My friend seems to be in a hurry, but nobody else seems to be in a hurry. Why should I be ? The object of his amendment

[Sir Nripendra Sircar.]

is this. Supposing originally the man was a Moslem and the girl was a Hindu and they had become genuine Arya Samajists and they had been Arya Samajists for ten years, then the marriage will become invalid. Surely I am not going to accept that amendment, whatever may happen to this Bill. My friend made another remark : Why don't you define a Muslim. He said " Oh, we have never come to court for getting our rights ascertained in this way ". Sir, are not there a series of Acts which applied only to Muslims ? May I start from 1876, the Act which authorises the appointments of Registrar for Moslem marriages. Is ' Muslim ' defined there ? But for want of that definition, has the slightest difficulty arisen within the last sixty years ? Will my Honourable friend think of the Waqf Act and the Waqf Validating Act ?

**Sir Muhammad Yakub :** It was so clear that it was not needed ; everybody knows what is the definition of a Muslim.

**The Honourable Sir Nripendra Sircar :** " Everybody knows what is a Muslim " ! That is the reason, Sir, why the columns of the Punjab papers for years have been flooded by one party trying to prove that the other party was not Muhammadan ! (Laughter.) Sir, this matter has been so fully discussed in the previous amendment, which is only different in that it suggests three years rather than one, that I won't take up the time of the House further. Sir, I oppose this amendment.

**Mr. Ghansham Singh Gupta :** Sir, as an Arya Samajist I come here not in the spirit in which my friend, Mr. Gadgil, has spoken, in a militant mood ; I am an applicant, rather a supplicant to this House and I want to put my case as fairly and as equitably as I can. The apprehensions that have been pointed out by my friend, Sir Cowasji Jehangir, have been thoroughly answered by the Leader of the House. I can only say one word, and that is that I mean this measure to be for undoubtedly genuine Arya Samajists and not for bogus ones. This I can state once for all, but nobody can guarantee that persons with baser motives will not or cannot take advantage of a thing which is intended for the good of a community. I shall not cite instances. It is said that persons take to Anand marriages for the purpose of evading the law. Now, if that is a fact, how can you frame a Bill for the Arya Samajists in which dishonesty will altogether be barred ? But I can say this. There will be very very few cases of persons who will take shelter under this Bill for the purpose of satisfying their bad motives, because there is the Civil Marriage Act. If persons want to be married, and if they really do not believe in the tenets of the Arya Samaj, there is no need for them to take shelter of this Bill ; there are existing today so many other Acts which give them facilities. (*An Honourable Member :* " Then, what is the trouble ? ") So, Sir, I can assure my Honourable friend, Sir Cowasji Jehangir, that if there is any Act which is the least likely to be misused, it is this Bill. Coming to my Honourable friend, Sir Muhammad Yakub, he, Sir, is a very ingenious Advocate. He will not read the Bill as it was introduced but only the Statement of the Objects and Reasons and then he charged the Select Committee with bad faith. He said that the Bill, which ostensibly was a very innocent one, which even the intelligent brain of Sir Muhammad Yakub at that time thought to be a very innocent one, has emerged from the womb of the Select Committee as a pernicious measure. Sir, I deny

this charge. Now, I requested my friend, Sir Muhammad Yakub, to read clause 3 of the Bill as introduced and as originally drafted. He did not do it. I shall read it; clause 3 as originally introduced reads as follows :

“ No marriage between Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason of the parties having belonged to different castes or sub-castes of Hindus or to different religions, any law or usage or custom to the contrary notwithstanding.”

The words “ to different religions ” were in the original Bill as it was drafted and as it was introduced. My friend misread the Statement of Objects and Reasons, he imported something into it which I never meant. I drafted the Statement of Objects and Reasons; it is my draft and the meaning is not as he wished to import into it. It says “ .....different castes or sub-castes..... ” Now he read it as, “ different castes or sub-castes of Hindus..... ”. The very first sentence says that the Arya Samajists do not believe in the caste system by birth. Either he may be a Kshatriya or he may be a Brahmin or he may be a Christian or he may be a Muslim. Now the Bill itself has made it perfectly clear by the words “ or having belonged to different religions ”. Therefore, the charge brought by my Honourable friend, Sir Muhammad Yakub, against the Select Committee, on which my respected Leader Bapu Aney was also sitting, has no foundation.

**Mr. M. S. Aney :** I never brought a charge of bad faith.

**Mr. Ghanshiam Singh Gupta :** I did not mean you but the gentleman in close company with you, because at any rate you cannot be charged with having any bad faith; and any Committee on which were such good friends of Sir Muhammad Yakub as Bapuji Aney it should not be charged with bad faith. So the only ground on which my friend, Sir Muhammad Yakub, charged the Select Committee with bad faith was that the word “ religion ” has been imported into it. Now, Sir, coming to the amendment of my friend, Mr. Bajoria, it is a simple thing. Now what does he want and what does my friend want? They say that an Arya Samajist should be defined.

**Babu Baijnath Bajoria :** Did you not want that ?

**Mr. Ghanshiam Singh Gupta :** I did want it and I should be very glad if it can be defined in a proper way.

**Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) :** Then your case is a hopeless one—it is nameless and shameless.

**Mr. Ghanshiam Singh Gupta :** Sir, I have not been brought up to retort in the way in which my friend uses the word. I am an Arya Samajist and I must keep the dignity of this House and I refuse to answer my friend in those terms. (Hear, hear.) Sir, I heard the speech of my respected friend, Bapuji Aney, with great respect; I have a very great regard for him and I heard it with rapt attention. His whole argument was this. If you cannot define it today, it is almost impossible for a court of justice to find him out.

**Mr. K. Ahmed :** No, the Judges of the different High Courts say that it must be defined, and as it is impossible or impracticable to give this definition, therefore, they do not support it.

**Mr. Ghanshiam Singh Gupta :** Sir, if my friend talked something which was worth replying to, I would have replied. My friend, Bapuji Aney, says that if it is difficult to define an Arya Samajist in this House, it is very much more difficult to find him out in a court of law. Now, Sir, I myself humbly differ from him. The whole question is this—whether it is more difficult to find out an Arya Samajist or more difficult to define him. Is it more difficult to find a Hindu or more difficult to define a Hindu ? As a student, I read an essay—I forget it, my memory is short—in which the problem was to define a man. How will you define a man ? And in that essay at the close of it it was found that it was practically impossible to define a man, but I think not even a child will make a mistake in finding him out. So, Sir, the whole point is this,—whether it is more easy to find out a Hindu or a Mussalman or an Arya Samajist, or it is more difficult to define them. I must confess that I tried to define him. This fact can be easily seen by the number of amendments that I have given notice of trying to define an Arya Samajist. I must admit that in every case I failed to define him correctly and precisely. But if my friend, Mr. Aney, asks me to find out an Arya Samaji, I will immediately do it. So, if it is easier to find out an Arya Samaji or a Hindu than to define him, then it is a case for a Judge and not a case for the Legislature. Therefore, the Judges who will decide particular cases will be able to come to right conclusions and find out who is and who is not an Arya Samajist while we are here labouring under very great difficulty in defining him. There is one point to which my friend, Sir Muhammad Yakub, referred. He said this Bill legalises past marriages also and this, he said, was absurd. I do not know why he called it absurd. He further said that such a legislation should never be passed. But if my friend, who is not in his seat, saw the marriage laws enacted by the Legislatures, he will find not only one but several pieces of legislation in which relief has been given to past marriages. I will refer only to Anand Marriage Act and to Malabar Marriage Act in which not only future marriages have been legalised but the past marriages have also been legalised. Therefore, the Arya Marriage Bill is not a solitary instance in which past marriages are sought to be legalised.

**Babu Baijnath Bajoria :** What case have you made out for giving this retrospective effect to this Bill ? I have not heard a word about it.

**Mr. Ghanshiam Singh Gupta :** I had thought that I should speak on that subject when I came to the proper amendment of my friend, Mr. Bajoria, but since he has put a question I will answer it. I have in my possession a letter from the All-India Aryan League which says that over 500 such marriages have taken place up to the year 1935 and we have to give relief to all these marriages. Now, Sir, it is not only in the field of marriage legislation that we give relief retrospectively but also in other fields, and the Leader of the House has referred to the Mussalman Wakf Act. And what does it do ? It has not only legalised the Wakfs that were made after the passing of that Act, but also those that were made previous to it. So, my Honourable friend, Sir Muhammad Yakub, should not be surprised to see that this Arya Marriage Bill seeks to legalise the past marriages. (Interruption by Mr. K. Ahmed.)

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Order, order : The Honourable Member is not giving way. The dignity of the House requires that even Mr. Kabeer-ud-Din Ahmed should exercise some restraint.

**Mr. Ghanshiam Singh Gupta :** Now, Sir, even if it were possible to define what an Arya Samajist is, is the definition that is given to us by Mr. Bajoria a proper one? Mr. Bajoria says that an Arya Samajist is one whose name is borne on the register of an Arya Samaj for one year. Now, Sir, if we adopt this definition, shall we not drive away several thousand Arya Samajists who are really *bonâ fide* Arya Samajists? If that is the result of Mr. Bajoria's definition, then it must be rejected.

**Babu Baijnath Bajoria :** How will you drive them away, I cannot understand.

**Mr. Ghanshiam Singh Gupta :** I will read out Mr. Bajoria's amendment. It says :

“ For the purpose of this Act, ‘ Arya Samajist ’ means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage.”

Now, let us look at this amendment properly. If it does not mean to say that his name should be borne on the register of the Arya Samaj, then it is meaningless. Perhaps I can satisfy Mr. Aney but I am afraid I may not be able to satisfy Mr. Bajoria. Either we have to rely on some register or we have to rely on oral testimony. Now, if my Honourable friend, Mr. Aney, says that there need not be any register, then you have to rely on oral testimony that the man was an Arya Samajist for one year before his marriage, and when will that question arise? It will arise not immediately after the marriage but it may arise 10, 20 or 30 years after the marriage. Now, the question will be (i) according to the proposed amendment, whether he was an Arya Samajist for one year before the marriage or (ii) according to the Bill as it is, whether he was an Arya Samajist at the time of the marriage? Both these questions have got to be decided on oral evidence. Now, the only point to be decided after 30 years will be whether he was a member of an Arya Samaj for one year or whether he was an Arya Samajist at that time. Where is the difference in the available testimony between the two? There is no difference. Therefore, if you take away the question of register, Mr. Bajoria's amendment is futile and useless.

Now, I come to another point. What about the children of an Arya Samajist? They are never borne on any register and they are never members of any regular Arya Samaj. Here in this House we have my respected friend, Bhai Parma Nand. He is as good an Arya Samajist and a much better Arya Samajist than I am. I am a member of a particular Arya Samaj. Bhaiji is not a member of any particular Arya Samaj. If the amendment of my Honourable friend, Babu Baijnath Bajoria, is adopted, then of my Honourable friend, Bhai Parma Nand, will cease to be an Arya Samajist for the purpose of this Act or he will be compelled to have himself affiliated in any particular Arya Samaj.

**Mr. M. S. Aney :** Suppose a question arises in a court of law, how will you prove that you are an Arya Samajist. Let me know that. Is it by oral evidence or by written evidence, or by both?

**Mr. Ghanshiam Singh Gupta :** I will prove, Sir, exactly in the way in which my Honourable friend, Babu Baijnath Bajoria's proposed Arya Samajist will prove that he was an Arya Samajist for one year. Therefore, Sir, I oppose the amendment.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, the only point before us is whether the expression 'Arya Samajist' should or should not be defined in the Bill. In the original Bill laid before the House, I see that the expression 'Arya Samajist' was defined there. In the Bill which has emerged from the Select committee, I notice that this definition has been expunged. I have got two explanations just now laid before the House, the one is by the Honourable the Law Member who says that the word is so familiar to everybody that it needs no definition. The other view has been given by the Honourable Member who just now sat down and he clearly said that this word was incapable of being defined. We are confused between the two explanations, namely that the word is too familiar to everybody to be defined and therefore it is unnecessary to define it, and that the word is incapable of being defined. We have now got two distinctly contrary statements before us. Therefore it is the legitimate right of the Members of this House to know very definitely why was this definition expunged from the Bill, in the light of the two contradictory statements on the floor of the House. If you agree to the theory that it is unnecessary to define the word because it is familiar, then I am sure that most of the definitions given in other enactments that have been placed on the Statute-book will also be unnecessary. I ask the Honourable the Law Member, why did he take special trouble to define the word 'managing agent' in the Companies Act (Amendment) Bill. We all know what that expression means.

**The Honourable Sir Nripendra Sircar** : I can give the Honourable Member an explanation.

**Dr. Ziauddin Ahmad** : I am not giving way. The Honourable Member can give the explanation when his turn comes.

**The Honourable Sir Nripendra Sircar** : Then don't ask me questions.

**Dr. Ziauddin Ahmad** : He can answer them when he speaks on this motion.

**The Honourable Sir Nripendra Sircar** : I have already spoken and I have no more opportunity to explain.

**Dr. Ziauddin Ahmad** : May I remind the Honourable the Law Member that while he took great trouble to define the expression 'managing agent' in the Companies Act, though every one knew what that expression means, he does not want to define the word "Arya Samajist". Why was it necessary to define "managing agent" in the company law. You will find in various enactments of this land several words whose meanings are obviously understood by the people at large are still defined in the Acts. My Honourable friend, Mr. Ghanshiam Singh Gupta, who is a staunch Arya Samajist said that this word cannot be defined. Now, I come to the opinions which have been circulated to this House. I find there is not a single opinion here which says that it is not necessary to define the word 'Arya Samajist'. They have drawn attention to the defects in the definition as framed in the original Bill, none of them have said that the word is so evident that it is not necessary to define it in this



enactment. I find from the list of opinions, on page 12, the opinion given by Bharat Dharam Mahamandal is :

“ The Bill does not explain who is an Arya Samajist. But its definition under clause 2 of the Bill has been made so wide as to include persons of all other communities.”

On page 20, there is the opinion of a District Officer who says :

“ It appears to me that clause 2 as drafted is extremely wide in its scope. It was admitted during the course of the debate that Arya Samajists are part of the Hindu community.”

Then, he says :

“ it would be sufficient if section 2 is restricted only to such persons who are members of an Arya Samaj and in the case of minors to those who are the sons and daughters of such members.”

Then, again, we have got a Resolution of the Bar Association on page 21 :

“ The term ‘ Arya Samaj ’ should include only such persons who are members of an Arya Samaj and no other persons as includes in sub-clauses (b) and (c) of clause 2.”

Then, on page 23, an Arya Samaj says that “ he is of opinion that the definition of Arya Samaj as given in clause 2 of the Bill is too general and vague ”. Now, Sir, none of the opinions so far received say that the expression ‘ Arya Samajist ’ is so clear that it need not be defined. All the opinions only say that the definition as given in clause 2 is too general and vague, that sub-clause (a) does not make it quite clear as to what formalities are to be complied with before a person can be called a member of the Arya Samaj. The Arya Samaj is not entirely a separate body from the Hindu community. On page 26 of the list of opinions, it is said that “ the definition of ‘ Arya Samajist ’ in clauses (b) and (c) appear to be absurd ”. On page 40, it is said : “ the definition of an Arya Samajist is a highly artificial one and if it is allowed to stand, it would be a fruitful source of litigation and communal bitterness ”. These are the opinions which have been expressed about the definition of the word “ Arya Samajist ”. I am sorry to note that not a single person who submitted his written opinion has said that the word is so clear that it is not necessary to define it. Everybody said that the definition as given in the Bill is vague and it ought to be made clear. That is the evidence we have got, but this is the first time we hear from the Honourable the Law Member that the word ‘ Arya Samajist ’ is such a simple word that it is quite unnecessary to define it. Before we agree to this kind of argument, we must say that most of the definitions given in a large number of enactments will become unnecessary because those words are exceedingly clear to every person. These things may be clear in the mouth of a layman, but when we take the case to the law courts and when the thing is really discussed there minutely with which my lawyer friends are familiar, then I say it is desirable that we should define this word “ Arya Samajist ” before we actually make this particular Bill into law. After all, when we produce any enactment we ought to make it as clear as possible. We ought not to produce a Bill which may be open to different interpretations in a large number of cases. And when we are now introducing a Bill here about Arya Samajists I think we ought to take every precaution to define what an Arya Samajist is.

[Dr. Ziauddin Ahmad.]

Evidently there are people who do not understand it and if there is even one man who does not understand it, I think it is the duty of the Legislature to define that particular word. I do not agree to the easy going method of the Select committee, who made no effort to define the word and only expunged the vague definition given in the original Bill. I, therefore, strongly support the proposition that this phrase "Arya Samajist" should be defined. Now what definition should be put in? Here the difficulty really comes in. Some people say that it cannot be defined and all the evidence that I have got is that it is very difficult to define it. And I think the definition which has got the least resistance, although it involves the fallacy of *petitio principii*, is the definition which has come from my Honourable friend, Mr. Bajoria. He has attempted to define it, but really speaking he has not defined it because he used the same words in the definition which he wants to define. In that view I think it ought to satisfy both parties. The parties who say that it cannot be defined ought to be satisfied because it is defined in the very words "Arya Samajist", and those who say that it should be defined ought to be satisfied with the definition given. Sir, I support the amendment of Mr. Bajoria.

**Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

"That after clause 1 of the Bill, the following clause be inserted, and the subsequent clauses be re-numbered accordingly :

'2. For the purpose of this Act, 'Arya Samajist' means a person who is a member of any Arya Samaj for a period of at least one year prior to the date of marriage.'

The motion was negatived.

**Babu Baijnath Bajoria** : Sir, I move :

"That for clause 2 of the Bill, the following be substituted :

'2. Notwithstanding any law, usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism.'

I am moving this amendment only with a view to minimising the inconveniences of Hindus other than Arya Samajists. As I said in my speech the other day, I am totally opposed to this Bill, on account of the apprehensions which Sir Cowasji Jehangir has explained to the House. I have got true apprehensions and sincere apprehensions, that this Bill aims at validating marriages not only between Arya Samajists but also between other Hindus who are not true Arya Samajists.

**An Honourable Member** : What is the harm ?

**Babu Baijnath Bajoria** : That is a matter of opinion. There the cat is out of the bag. The whole thing is this. The other side and those of the reformist school of Hindu thought want that by having this Bill passed they will serve their purpose which would have been served if Dr. Bhagavan Das's Bill which is a much wider Bill had been passed in this House. Sir, I will first of all read what is the difference between

the present clause 2 as amended by the Select Committee and my amendment. First, I do not want that there should be retrospective effect to this Bill. The second thing which I do not want is that one of the parties may be a Hindu Arya Samajist and another may be a converted Arya Samajist. These are the only two changes which I am seeking in this amendment, and nothing more. Sir, Mr. Gupta and the Arya Samajists want this Bill notwithstanding any law, usage or custom to the contrary. They care a twopence for any law or usage or custom. Let the law go to hell, let custom go to hell, let usage go to hell. That is what they want. Very well, let them have it. I know what respect my friends on the other side have got for the law of this land ; I also know what respect most of them, barring a few exceptions, have for custom and usage. I may explain to the House, as I explained the other day, that even at the present moment the usage and custom among Arya Samajists also is that 90 or 95 per cent. among them marry within the caste. Theoretically they may not believe in the caste system but in practice they do. Only in stray cases does it happen that somebody amongst them takes a fancy to a girl of another caste or of another religion and they dare to marry outside the caste or outside the religion. I want to stop that but I see that I cannot stop it among Arya Samajists, and therefore I want to stop it among Hindus other than Arya Samajists. The Hindu society has been built on the caste system and I do not think anybody will dare to deny it. The caste system has been in existence for over three thousand years, if not more, and it is only on account of the caste system that Hindu society has survived where other ancient civilisations like the Greek, Roman and Egyptian have all faded away.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Is it worth while surviving as slaves ?

**Babu Baijnath Bajoria** : This Bill will not make you free, this will not give you swaraj. Sir, as I said, the caste system is the pillar on which the structure of the Hindu society exists. Take away the caste system and Hindu society falls to pieces. There may be Hindus in name only but not in the true spirit of Hinduism, not as followers of Hindu religion as ordained by our Shastras, by our Vedas, by our Smritis and Shrutis. The first point is that I do not want this retrospective effect. No case has been made out for giving this Bill retrospective effect. One or two instances have been given by my friend, Mr. Gupta, about Anand Marriage Act.....

**Mr. Ghansham Singh Gupta** : I have said 500 marriages.

**Babu Baijnath Bajoria** : I meant Acts like the Anand Marriage Act and so on. But that Act applies to Sikhs. The Sikhs do not call themselves Hindus : they are not within the fold of Hinduism—they are outside the fold of Hinduism. But here the Arya Samajists want to remain within the fold of Hinduism and yet they want a separate Act for themselves.....

**Seth Govind Das** (Central Provinces Hindi Divisions : Non-Muhammadan) : Turn them out also out of Hinduism.

**Babu Baijnath Bajoria** : They want to go, but I want to keep them within Hindu fold. If this Bill is passed into law as it is

[Babu Baijnath Bajoria.]

going to be, you can take it they will be socially severed from the Hindu religion and the Hindu society : all marriages between Hindus and Arya Samajists which are freely being contracted and performed at the present moment will have to be stopped altogether. It will be more suffering to them—90 or 95 per cent. of them ; and it will be beneficial only to 5 or 10 per cent. of them. I was referring to the caste system when I was disturbed by my Honourable friends opposite. We Hindus believe in caste system. We believe that no marriage can be performed between two different castes of Hindus. If a marriage is performed between two castes then the off-spring is a half-caste or *varna sankar*. I want to say something about this *varna sankar*. *Varna Sankar* is a hated thing among us. The off-spring is considered to be much worse than shudras or untouchables. I think my Honourable friends have got some faith in the teachings of Lord Sri Krishna in the Bhagavad Gita. Sir, I will recite one or two slokas from that Book. This is what it says about *Varna Sankar*....

*Sankaro narakayav kulaghnanam kulasyacha*

*Patanti pitaro hyesham lupka pindodaka kriyaha.*

**Pandit Nilakantha Das** (Orissa Division : Non-Muhammadan) : They are not what the Bhagavan Sri Krishna says : they are the words of the puzzled Arjuna, and this Sri Krishna contradicts later on.

**Babu Baijnath Bajoria** : And, again, Arjun says :

*Doshairetai kulaghnanam varnasankar karkashi,*

*Utsadyante jati dharma kuldharmashcha shaswata.*

*Utsanna kul dharmnam manushyanam janardana,*

*Narake niyatam jato bhavatityanu sushruma.*

**Pandit Nilakantha Das** : Arjun says that in *Moha*, in which he has lost judgment, and Krishna tells him, that it is Anaryajutam, that is, non-Aryan practice.

**Babu Baijnath Bajoria** : I shall translate these slokas briefly. "*Varna Sankar* destroys the whole family and the whole family goes to hell : even the ancestors (the *pitras*) fall as they do not get *pinda* and water from the hands of a *varna sankar*. Then they say that this *varna sankar* is the cause of destruction of families, destruction of race and destruction of family rules and customs : *varna sankar* also kills religion and it takes man into eternal hell." I as a Hindu will never be a party to any Bill or law which has the object of producing *varna sankar* amongst the Hindus. I will now say something about the retrospective effect....

**Seth Govind Das** : May I ask one question ? I want to know out of how many castes girls were married to Arjun and out of how many castes girls were married to Krishna himself ?

**Babu Baijnath Bajoria** : If the Honourable Member will come to my house I will be too pleased to discuss these questions.

If retrospective effect is given, for which no case has been made out and no urgency has been proved, then I say that a few *bona fide* Arya Samajist marriages will be valid and a good many others.

probably much more than the number of *bona fide* marriages will become valid marriages....

**Dr. N. B. Khare :** May I ask whether there are not at present any marriages celebrated between Marwari Sanatanists and Marwari Jains ?

**Babu Baijnath Bajoria :** If both the Marwaris are Aggarwals, or Oswals, or Maheshwaries of the same caste then they are legal marriages, just as there are marriages even between Marwari Sanatanists and Marwari Arya Samajists ; but you are going to stop those marriages. (*An Honourable Member :* "No.") Yes, you are. Let us come to the point : what will be the effect of this retrospective effect. Supposing a person has got issues from a legally married wife, and they are enjoying the property for a long time : suppose also he had a kept woman or mistress by whom also he has issues : till now these latter were considered to be illegitimate and had no voice or share in the property. After the passing of this Act, if the woman or offspring produce some evidence—and I think my friend, Mr. Gupta, will be too obliging to them and give them some evidence, they will become legalised....

**Mr. Ghansham Singh Gupta :** I am not a universal witness !

**Babu Baijnath Bajoria :** We know what Arya Samajism is : as Mr. Gadgil has already said, they are a militant sect of the Hindus and he is perfectly right. Arya Samajists are the most aggressive....

**Mr. Sri Prakasa :** Does my Honourable friend say that the Sanatan Dharma allows keeping of woman like that and then throwing his children by her to the wolves ?

**Babu Baijnath Bajoria :** Sanatana Dharma does not encourage keeping of women in that manner nor marrying all women in that manner....

**Mr. N. V. Gadgil :** It does not allow you to speak in a *yavana* Bhasha, viz., English : it says :

"*Na Pateth yavaneem Bhasham Pranair Kanta Gathairapi.*"

"you should not learn a Yavani (foreign) language even though you are on the point of death."

**Babu Baijnath Bajoria :** What will be the effect now ? Those sons who have all along been illegitimate will now claim a share of the property and become legitimate sons. I understand that amongst the Sudras marriages outside the caste though not considered to be very desirable are still legitimate under the present law. I speak subject to correction from the Law Member if I am incorrect, and they are entitled to the property as much as a son from a married wife. We do not know when this Act is passed what the position will be of these offsprings, what law will be applied to them. As I understand, the Succession Act is not liked by my friend, Mr. Gupta, and probably it may go. What law is going to apply ? Whether the Sudra law is going to be applied or the Dwija law is going to be applied because there are different laws for Dwijas, i.e., Brahmins, Kshatriyas, and Vaishyas, and the Sudras ? I think great mischief will be done if retrospective effect is given. No time limit has been fixed, from what

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date? 20 years, or 10 years, or 15 years? I think this Bill seeks to validate all marriages that have taken place since Arya Samajism came into existence.

**Bhai Parma Nand** : I want to know from the Honourable Member whether there are two parties among the Marwaris in Calcutta on this very question of sub-caste marriages, and if there are, whether the other party who are in favour of these sub-caste marriages are Arya Samajists or Hindus?

4 P.M.

**Babu Baijnath Bajoria** : That is a question which you can ask the other party.

**Bhai Parma Nand** : I ask your opinion about it.

**Babu Baijnath Bajoria** : No time limit has been fixed. I think all marriages that have taken place ever since the Arya Samaj came into existence are going to be legalised by this Bill. Is it fair? In my opinion it is most unfair, most inequitable, and most unjust. Sir, no form of marriage has been prescribed. It only says, any marriage contracted whether before or after the commencement of this Act. The marriage may have been performed according to any rites. My Honourable friend, Mr. Ayyangar, has given us a description of an Arya Samaj marriage. The description which he has given is of a Hindu marriage, of a purely Hindu marriage which exists amongst all orthodox Hindus—that we must have *saptapadi*, *agni*, and so on. I am trying to differentiate between Hindus and Arya Samajists so that this Bill, if passed, may not apply to those Hindus other than Arya Samajists. No remedy has been suggested. They want to kill two birds with one stone. By passing this Bill, they are seeking the benefit which they would have derived by passing Dr. Bhagavan Das's Bill. As I said in my previous speech, the Bill which was circulated was entirely different from the present Bill, but still several bodies were opposed to retrospective effect being given. I will read some of the opinions. The Chief Commissioner of Delhi says :

**An Honourable Member** : Is he a Marwari ?

**Babu Baijnath Bajoria** : He is an European.

**An Honourable Member** : A Sanatanadharmi too !

**Babu Baijnath Bajoria** : An European may be an Arya Samajist. but not a Sanatanist.

The Chief Commissioner of Delhi says :

“ If the principle be introduced at the wish of the members of the Arya Samaj community the Bill introducing it should be such as to ensure :

- (1) That there is no retrospective legislation.
- (2) That only members of the Arya Samaj community are affected.
- (3) That only marriages between people who are both members of the Arya Samaj community should be affected.”

The Sri Bharat Dharma Mahamandal says :

“ The orthodox community cannot have any objection to what takes place amongst those who call themselves Arya Samajists, but the greatest difficulty and most harmful question lies in the fact that there is no fixed line of demarcation between an Arya

Samajist and an orthodox Hindu like that of a Hindu and a Muhammadan, a Hindu and Christian and a Hindu and a Buddhist. In a Hindu family one brother is of orthodox principles and the other an Arya Samajist. Their views are as different and wide as two poles asunder. Hence the Bill must be very critically and scrupulously scrutinised to protect the interest of the orthodox body of the Hindus. Hence the following remarks may be justly made regarding the application of its provisions indiscriminately and widely on other communities who are not Arya Samajists."

I won't read the whole opinion, but I will read only a few more lines :

"The Bill does not say that both the parties should belong to Arya Samaj or that conversion should precede the marriage. It has therefore an important bearing upon them and affects an important aspect of pre-historic Hindu social organisation and personal law of the orthodox Hindus and Moslems and other communities. Further under clause 1 (2) the application of the Act having been made retrospective, it has the effect of injuriously affecting very closely the interests of every community. So the Bill has more serious and pernicious implications than what has been expressed by the short title."

The others who are also opposed to this principle of retrospective effect being given to this Bill are the District Magistrate of Jhansi, the Secretary of the Hindu Sabha, Fyzabad, and Mahamahopadhyaya Pandit Haraprasad Shastri whose opinion I read the other day. There is not much difference between the Arya Samajists and other Hindus. There is great difficulty in defining it and that is why my apprehension is the greatest. My Honourable friend, Dr. Khare, in his opening speech differentiated between Hindus and Arya Samajists by saying that the latter do not worship idols. They may not worship the idols of Vishnu and Shiva, but they worship the photo of Swami Dayanand Saraswati. That is idolatry, there is no doubt about it.

**Some Honourable Members :** No, no.

**Babu Baijnath Bajoria :** Will my Honourable friend, Mr. Gupta, deny it ?

**Mr. Ghanshiam Singh Gupta :** I have denied it.

**Babu Baijnath Bajoria :** You do not worship ?

**Mr. Ghanshiam Singh Gupta :** The photo of Swami Dayanand Saraswati is never worshipped as God.

**Babu Baijnath Bajoria :** But you worship him.

**Mr. Ghanshiam Singh Gupta :** As what ?

**Babu Baijnath Bajoria :** Then, Sir, there is the question of marriages between converts and Hindus. This is a thing which I can never tolerate. As I said before, Hinduism does not recognise conversion at all. (Interruptions.)

**Mr. President** (The Honourable Sir Abdur Rahim) : Honourable Members must not go on interrupting like this, or carry on conversation, which makes it very difficult for other Honourable Members to hear the Honourable Member's (Mr. Bajoria's) speech.

**Babu Baijnath Bajoria :** But the Arya Samajists are carrying on conversion in defiance of Hinduism. If they want to do it, if the law permits it, very well, but a Brahmin, say, converted into an Arya Samajist should not be allowed to marry a girl from the Christian or Muhammadan or any other religion. This is absolutely repugnant to

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all Hindu ideas. So, if conversion is to be allowed under this law, then marriages must be confined to converts themselves. There is another thing. If a Dwija marries a "patit" or lower caste, then he himself becomes a Sudra, I can quote the authority of Manu, which is as follows :

*"Hccnajatī striyam mohat udvahante duijatayah,  
Kulanyeva nayanyashu sasantanani shoodratam."*

(Manu, 3,15.)

**Sir Cowasji Jehangir** : I rise to a point of order, Sir. Is it in order for any Honourable Member to read a thing in a language which nobody understands. We have been hearing these quotations for some time now.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member is entitled to quote from any authority he likes, but he should give a translation of it in a language which the House can understand.

**Babu Baijnath Bajoria** : I will translate it, Sir. I am translating : Those Brahmins, Kshatriyas and Vaishyas who through infatuation enter into wedlock with a woman of inferior creed or caste reduce their families to the status of Sudras for generations.

Sir, this is the position created by marrying a woman of a lower caste. A Hindu, however high his original caste may be, even if he is a Brahmin, becomes a Sudra. Then, Sir, if a Brahmin converts himself into an Arya Samajist and marries a convert from Muhammadanism, under what law will he be governed ? Will the Hindu law apply or Brahmin law or Sudra law or the Moslem law. We have also to consider the question of succession. These are two questions which are inseparable. What I want is that there must not be any retrospective effect to this Bill and converts alone should marry among themselves and no marriage should take place between an original Hindu and a convert from any other religion. I hope the House will give due consideration to what I have said and will accept my amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved :

"That for clause 2 of the Bill, the following be substituted :

2. Notwithstanding any law usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism."

**The Honourable Sir Nripendra Sircar** : I am very sorry I have got to deprive the House for a few minutes of the pleasure of hearing an entertaining speech from my friend, Mr. Kaheer-ud-Din. I shall be extremely brief. I shall not be dragged into the heat of religious controversy but I shall meet my Honourable friend's point about retrospective effect. I think I am not giving away any secret when I state that my Honourable friend put it to me "You resist sometimes rights



of managing agents being cut away on the ground that there should be no retrospective effect given to legislation unless there is a very strong case for it and how can you support a Bill of this kind". I would beg my Honourable friend to remember this. This is a declaratory Statute. A declaratory Statute does not mean that what had been obtaining before was necessarily unlawful but as a doubt has arisen, that doubt has got to be cleared and therefore a declaratory Act has to be passed and if I may just read two or three lines from Maxwell on "Interpretation of Statutes", the learned author is pointing out that a Statute should not be construed retrospectively unless the words are very clear and so on and he proceeds to state this :

"If a statute is in its nature a declaratory Act, the argument that it must not be construed so as to take away previous rights is not applicable."

Why is it not applicable? There must be a reason for it. What rights are we taking away by giving retrospective effect. My friend's answer will be that the issue of those marriages could not inherit. Other people have secured rights and they will be divested by this legislation. That reasoning is wholly wrong because we are not proceeding on the footing that at the present day a marriage between two Arya Samajists who originally belonged to different castes of Hindus or the one was a Hindu and the other was a Moslem—I do not think any Arya Samajist will concede,—nor has it been so held by courts—that the marriage is to be deemed to be invalid. The necessity for this law is that in case such doubts arise,—and I am sure my friend, Mr. Bajoria, is quite willing to throw as much doubt on that position as is possible—it is necessary to remove that doubt. We are not taking anybody's rights. We are not proceeding on the assumption that what was previously the status of a concubine is now going to be dignified into that of a wife. That is not the position taken up by the people who have sponsored this Bill nor do I take up that position. I hope that my friend will see the difference between taking away the rights of managing agents and a declaratory Act like this which really wants to remove doubts about this marriage.

**Mr. K. Ahmed :** Sir, I rise to support the amendment of Mr. Bajoria. I want to quote as much authority as possible so that a portion of clause 2 of this Bill may be expunged; but, before I do so, you will kindly allow me according to the convention of this House and also Parliamentary procedure to bring to your notice a matter which is of tremendous importance. It refers to an unjustified attack on myself in the Press. I bring to your notice, Sir, because you are the custodian of the rights and privileges and the dignity and honour of each Member of this House. The point which I want to raise is whether it is open to the Press to publish reports of the proceedings of this Honourable House in a *mala fide* manner and whether there is any protection to Honourable Members of this House to guard against all the unjustified attacks and journalistic impropriety. *Bona fide* reporting is permissible, no doubt and not *mala fide* reporting and it is made abundantly clear in May's Parliamentary Practice on page 83 in the Thirteenth Edition. Three newspapers, the *Hindustan Times*, the *Advance* and the *Amrita Bazar Patrika* in their issues, dated the 23rd, 24th, 25th and 26th instant misreported my speech made on the 22nd and 24th September.....

**Sardar Sant Singh** (West Punjab ; Sikh) On a point of order. Is it permissible to refer to personal matters appearing in the Press when an amendment to the Arya Samajist Bill is under discussion ?

**Mr. President** (The Honourable Sir Abdur Rahim) : A point of order has been raised whether the Honourable Member who is now speaking on the amendment can refer to certain alleged attacks on him personally by some newspapers. If the Honourable Member wants to raise any question of privilege, there are other ways of doing it. At present he ought to confine himself to the amendment.

**Mr. K. Ahmed** : Very well, Sir, in confining myself to the amendment I must refer to the unfair criticism and to the misrepresentation of facts which has been indulged in, in which I have been wrongly reported and caricatured by the special reporter of these three newspapers. Sir, reporters are allotted seats in the gallery on the understanding that they will correctly report the proceedings and debates of this House, but the point now is whether these papers have not assailed the well-known privilege of all parliaments.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. If the Honourable Member wants to raise the question of privilege, then there are other ways of doing it. If he brings to my notice in my Chamber that any attack has been made by any newspaper upon him in the discharge of his duties in this House, then I shall consider whether any action can or should be taken against it or not.

**Mr. K. Ahmed** : Very well, Sir, I am thankful to you. I may remind you, Sir, that in the year 1928, two of the reporters in the Press Gallery above did not correctly report the speeches and the Honourable the President took strong exception to the conduct of the press correspondents in the gallery. The matter is on record. And my case is stronger than that.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. I would point out to the Honourable Member that if he brings the matter to my notice in the Chamber and points out what are the passages he objects to and which he thinks infringes the privileges of this House, I will consider them and if necessary I will take any step required, but I think the Honourable Member must come now to the amendment before the House.

**Mr. K. Ahmed** : Now, Sir, the amendment is that in the latter portion of the clause there is a phrase (Laughter)—it is not a matter of laughter, but if I am allowed only a minute or two, Honourable Members will realize their situation, *viz.*, what the thing is going to be. Sir, at the end, in the wording of the amendment it states this : that the parties at any time belong to a different caste or a different sub-caste of the Hindus and " that both parties at any time belonged to a religion other than Hinduism ". That portion, Sir, is where the shoe pinches : and if there is anybody who can convince me that that portion of the Bill, as far as it goes, is right, I shall be very much thankful to him, and it has become a duty incumbent upon me to discharge,—coming as I do from a long distance to take part in this Bill—namely, to point out that my friends do not appreciate the position fully ; and I must congratulate for a moment my friend, Mr. Ghansham Singh Gupta, who has borrowed these sentences

of the Bill from our late colleague with whom I was very intimately associated from 1927 to 1930,—Mr. Muktar Singh, a pleader practising in the Meerut Courts. Well, Sir, this includes a Muhammadan, Christian, a Jew, a Parsi or anybody else who can contract a marriage with a Hindu girl and become an Arya Samajist before or after becoming an Arya Samajist, but let us see what is the position. Why are you so fond of making a Muhammadan a convert to the creed of the Arya Samaj? Are you not satisfied with your inter-caste marriage, with your Civil Marriage Act or with your Special Marriage Act? Why do you bring in these Muhammadans, Christians, Parsees and Jews who have got nothing to do with you, and then when you come to clause 5 for the purpose of sharing in the inheritance to the property of the two lovers in the marriage, their issues born in the wedlock will come to fight in the law courts; and lawyers get busy like my Honourable friend, the Law Member, who must have relished the bounteous fees that he has received from similar huge properties left by a multi-millionaire like my friend, Sir Cowasji Jehangir, as their estates came under decision before the courts. Sir, if there is a political reason underlying this measure, if there is a policy for a sinister motive behind this Bill, I would ask my Arya Samajist friends to consider for a moment what was the fate of Swami Shraddhanand who was not in any way inferior to Swami Dayanand. Do my friends forget what happened only a few years ago in the Imperial City of Delhi when Swami Shraddhanand was murdered? As far as my knowledge goes, Sir, a Muhammadan was married to a girl who was a non-Muhammadan, who was an Arya Samajist probably,—and now, Sir, I know the tactics, how you want to multiply the number of your population,—not by the front door but by the back-door. (Laughter.) Sir, they have got the Shuddhi movement and the Muhammadan have got the Tabligh movement, and what do they want to do by the Shuddhi movement? And what was the reason of the murder of Swami Shraddhanand, tell me? (Cries of "Order, order.") What is the use of my friends shouting like school boys over there?

**Dr. N. B. Khare :** Will the Honourable Member kindly state if he is suggesting that I should be murdered for moving this Bill?

**Mr. K. Ahmed :** Sir, we have a Bengali proverb : "*Mookhey Ram, Ram, Bogolay Chhooree*"—"You take the name of Ram, Ram, and at the same time you have a dagger in your arm-pit". If your policy was not to bring that Muhammadan wife into the Shuddhi form of Arya Samaj conversions, and if the husband was not agreeable, and provoked, tell me what was the reason of some people committing the murder of Swami Shraddhanand?

**Mr. M. S. Aney :** Sir, does my Honourable friend want to convey an impression to the House that he approves of the murder of Swami Shraddhanand?

**Mr. K. Ahmed :** That is a side issue—that is for the Honourable the Law Member to enlighten my Honourable friend upon. I am not accused undertrial before a judge, like my friend, Mr. Aney, who might have given his approval.

**The Honourable Sir Nripendra Sircar :** Sir, if my friend is appealing to the Law Member, well, certainly that is the impression which was created,—that he is approving of the murder of Swami Shraddhanand.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the amendment.

**Mr. K. Ahmed** : Sir, the amendment talks of "both the parties at any time belonged to a religion other than Hinduism"—and I say, Sir, that as Muhammadanism is a religion, and therefore as a Muhammadan husband or a Muhammadan wife was dragged into the court with a sinister motive on the part of the followers of Swami Shraddhanand, viz., to convert the Muhammadan wife into the creed of the Arya Samaj, with the possible consequence of the poor children being left to totter about, uncared for and unlooked after, there was an intense feeling aroused into the mind of the poor husband, who I say would not otherwise have committed the murder of Swami Shraddhanand.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. The Honourable Member is still not speaking on the amendment.

**Mr. K. Ahmed** : Now, Sir, let us see what the Honourable Judges of different High Courts have said on this Bill. Justice Bisheshar Nath Srivastava of the Chief Court of Oudh says :

"I am in favour of the principle of the Bill. But the marriages between the different castes of Hindus have been held to be invalid and I would omit the reference to 'different religions' in section 3. The use of these words opens out a much larger question and is outside the scope of the Bill as given in the Statement of Objects and Reasons."

Now, what is the Statement of Objects and Reasons ? I will read it out to the House :

"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 the sacred Shastras and as according to the law as administered at present marriages between parties belonging by birth 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 obstacle, it is necessary to have a law which would give relief to the Arya Samajists."

But why in Heaven's name you bring in the Muhammadans, the Christians, the Jews, and the Parsis. Leave them out altogether. What is the use of dilly-dallying and shilly-shallying and saying a thing which is of no use. Now, let us see what the other Judges say. Mr. Justice Nanavutty, who is an I. C. S. Judge and whom I know very well because we were together in our college life at Cambridge. He says :

"This clause considerably widens the scope of the Bill for it legalises marriages of Arya Samajists with Muslims and Christians. This clause thus goes against the preamble to the Bill which lays down that the Bill is meant to recognise the validity of inter-marriages amongst the Arya Samajists themselves."

What is the answer to this ? What is the use of those people shouting me down unnecessarily and creating all sorts of obstacles in this House ? If they have got an answer to this, let them bring it before the House. Let them use their tongues if they have any now. Mr. Justice Nanavutty goes on to say :

"So far as I am aware, no one has ever challenged the validity of the marriages where the two contracting parties are Arya Samajists. It is only the union of Arya Samajists with Muslim and Christian women that is resented and disapproved of by orthodox Hindus and Muhammadans."

That is where the trouble comes in. There may be a marriage between an Arya Samajist and a Muhammadan which is disapproved of by orthodox Hindus and Muhammadans.

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : I rise to a point of order, Sir. We are now discussing amendment No. 12, which deals with the same matter, in this respect, as the original clause. It has nothing to do with marriages excepting those between Arya Samajists whose earlier religion was either Hinduism or Islam or Christianity. There is a later amendment which deals with that.

**Mr. President** (The Honourable Sir Abdur Rahim) : It covers also the cases of marriages of persons who belonged to different religions.

**Mr. K. Ahmed** : Mr. Satyamurti does not realise what is going on in the House. I will now complete the quotation :

“ It is well-known and it is resented and disapproved of by the orthodox Hindus as well as Muhammadans. And if this Bill is meant to validate such union, it is sure to rouse much religious passions and bad blood between these two great communities.”

Do you want the trouble of 1926 when Lord Irwin landed in Bombay and hundreds and hundreds of people got killed ? Is that what you want by having this Bill passed ? I warn you. Be wise. Do not become hopeless like these young lovers who are anxious to get married. It is one thing to be in love sick, but the country expects the Members of this House to use their judgment and pass an enactment which will be acceptable to the country. We should not become impatient like the young lovers. Now, Sir, I will read the opinion of the Chief Justice of the High Court of Allahabad. He says :

“ The draft Bill goes beyond the Statement of Objects and Reasons.”

Now, I ask the Law Member whether he is not making a mistake.

**The Honourable Sir Nripendra Sircar** : As the Honourable Member has put a question to me, may I point out that these opinions are all irrelevant for they are criticisms of a draft from which it was not clear whether both the persons were to be Arya Samajists at the time of the marriage. All these criticisms point out that this Bill might rope in Muhammadans and Christians. My friend is now reading the opinions which have no admiration for the Bill before the House.

**Mr. K. Ahmed** : I am very thankful to my Honourable friend who is getting much more than myself and he is labouring under a misapprehension. That may be so, but the facts are there. You cannot change the wording of the Statement of Objects and Reasons as set out in the original Bill.

**The Honourable Sir Nripendra Sircar** : It has been changed.

**Mr. K. Ahmed** : That is illegal ; it is improper and you cannot do it. You have got no jurisdiction whatever to do it. The Report of the Select Committee is signed by the Honourable the Law Member, the next name is that of my Honourable friend, Rao Bahadur M. C. Rajah. Because he was a school master, he did not know what he was signing.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member ought not to make such personal remarks.

**Mr. K. Ahmed** : I withdraw, Sir. The next name is that of Mr. G. S. Gupta, next is Dr. Khare, who is a medical man and who is not expected to know much of law. Then, Dr. Bhagavan Das, who is probably a Doctor of Literature, and then, Mr. Spence, the Secretary of the Legislative Department. When the Law Member is sitting on the Select Committee, we cannot expect his Secretary, Mr. Spence, to differ from him. Then, we have Dr. Deshmukh, who, I know, is a good surgeon, and he has nothing to do with law ; next my Honourable friend, Sardar Sant Singh, who is a District Court pleader of Lyallpur, and lastly, we have Mr. Aney of the Berar Court under His Exalted Highness the Nizam. I say the Members of the Select Committee acted beyond their jurisdiction. They have committed a breach of trust and a breach of faith. I submit, Sir, that we, Hindus and Muslims have been living in this country from generation to generation and now please do not bring in a Bill which is neither liked by a majority of Hindus themselves nor by anybody else except the young Swarajists on the Congress Benches, who, if I may say so, are love-sick. I submit the time has come when they should disburse and take advice from their elders and then come to this House to enact a legislation beneficial to the country, to the Hindus and Muslims alike. I therefore, suggest that the following words in the clause 2 :

—“ or that both the parties at any time belonged to a religion other than Hinduism ”—

be expunged from the amendment of my Honourable friend Babu Baijnath Bajoria. Otherwise trouble will arise. The intention seems to be to convert all the Christians, Muslims and others into the Arya Samajist fold and take hold of their property. Now, let us see what the Chief Justice of .....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member has already referred to many of the opinions and I think he ought to be content with them. They should be quite enough.

**Mr. K. Ahmed** : What I meant to say was that I have several other authorities in support of my contention. Even the Judges of the Madras High Court have said that. I therefore say that these words should be expunged. If you do not do so, it will create disturbance in the land. If this Bill is confined to Arya Samajists who are a portion of the Hindus, there would be no disturbance or chaos in the land. If you touch the other communities, I warn you that chaos will prevail. For heaven's sake, do not drag us.

**The Honourable Sir Nripendra Sircar** : Not easy to drag you.

**Mr. K. Ahmed** : One puisne judge of the Chief Court of Oudh, Justice Bennet, who is a European I. C. S., has said that this provision is against Muslim law and he has definitely said that “ marriage between a Muslim and one who is not a Kitabi is invalid under Muhammadan law ”. The Bill should say clearly that nothing under its provision will affect the succession to any property under the provisions of the Muhammadan law. I, therefore, appeal that in the larger interests of the country, this House ought to expunge those words from the amendment. It is the duty of Government to mete out justice between Hindus and Muslims and not to create trouble. With these words, I appeal to the House to delete those words from the amendment.

**Sardar Sant Singh** : I am very glad that my Honourable friend, Mr. Kabeer-ud-Din Ahmed, who hails from Malda, probably finding his practice at law to be briefless took to legislation.

**Mr. K. Ahmed** : Is there any justification for my Honourable friend over there to shout like a rickshaw assistant. He must withdraw what he has said.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw those words.

**Sardar Sant Singh** : What I referred to was that not finding briefs at law, he took to legislation. If this is unparliamentary, I have no objection to withdraw.

**Mr. President** (The Honourable Sir Abdur Rahim) : Considering the fact that the Honourable Member is a practising Barrister, the Honourable Member (Sardar Sant Singh) should withdraw that observation.

**Pandit Sri Krishna Dutta Paliwal** (Agra Division : Non-Muhamadan Rural) : Sir, on a point of order, the Honourable Member called me a rickshaw coolie. Is that parliamentary ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I heard the words "rickshaw assistant". If the Honourable Member objects to that, certainly he must withdraw it.

**Pandit Sri Krishna Dutta Paliwal** : He speaks like a coal mine coolie.

**Sardar Sant Singh** : Sir, during the course of this debate, several speakers have referred, among other pieces of legislation, to the Anand Marriage Act, and the Mover of the present amendment, my Honourable friend, Mr. Bajoria, has also referred to that Act having been passed for the benefit of the Sikhs. I just want to remove certain misapprehensions about that Act and the difference of that Act from the present legislation. This piece of legislation not only tries to remove certain doubts as to the validity of marriages between parties of different castes but it goes further, while the Anand Marriage Act was passed only to remove doubts as to the validity of the ceremony of marriage prevalent among the Sikhs. I will read from the Preamble of the Act itself :

"Whereas it is expedient to remove any doubts as to the validity of the marriage ceremony common among the Sikhs called Anand, it is hereby enacted as follows : "

The scope of that Act was very limited. Probably the Members of this House do not know that the Sikhs have got a peculiar ceremony of marriage which is called Anand which is not in the old Sanskrit language as it prevails among the Hindus but in the pure Punjabi language in the words of our great Guru. So the present Bill cannot be compared with that Bill. In matters of validity of marriages a portion of the Sikhs is governed by the Hindu law and others by the customary law as prevalent in the Punjab ; and that customary law is not only territorial but sometimes it is a tribal law too. It differs from district to district and from tribe to tribe. So that Act cannot in any way be compared to the present Bill.

**Babu Baijnath Bajoria** : What the Honourable Member says cuts at the root of Mr. Gupta's argument.

**Sardar Sant Singh** : It is for the Honourable Member to come to his own opinions ; I have no opinion to offer on that point. I only wanted to remove a misapprehension about this Bill and the old Anand Marriage Act.

Coming to the amendment I will say that really I have not been able to understand Mr. Bajoria's arguments in not giving retrospective effect to marriages while at the same time recommending by this amendment that marriages after the commencement of this Act should be considered valid. I need not try to define a marriage because it leads us into many controversies. Either it is a sacrament, as according to the Hindu shastras, or it is a contract between the contracting parties ; but at the same time there is no doubt that the ceremony of marriage furnishes merely an evidence that a man and woman or a young boy and girl have been joined in a nuptial ceremony for the purpose of leading a chaste life for the rest of their life. If he is agreeable that inter-caste marriages should be recognised by law after the commencement of this Act, there does not seem to be any reason why we should perpetuate a wrong against the offspring of these marriages which, when celebrated, were considered to be valid but which by some ruling of the High Court or some interpretation have come to be regarded as doubtful marriages. This is an illogical inconsistency and my friend ought to explain why it should not be agreed to.

Then, in the amendment itself, there are certain words which are not very happy. In the amendment my Honourable friend says :

“ That for clause 2 of the Bill, the following be substituted :

‘ 2. Notwithstanding any law, usage or custom to the contrary, no marriage contracted after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that both the parties at any time belonged to a religion other than Hinduism.’ ”

He does not provide for a case where one of the parties belongs to a different caste or sub-caste. Either he has omitted it consciously or it has been omitted unconsciously.

**Babu Baijnath Bajoria** : The Honourable Member has not followed the amendment at all. I say, “ both parties at any time belonged to a religion other than Hinduism ”. As regards different castes and sub-castes, no provision is made for them if one of the parties is a Hindu.

**Sardar Sant Singh** : One of the parties.

**Babu Baijnath Bajoria** : In the case of converts from other religions it must be both parties. But in the case of different castes it does not arise ; one party may be of one caste and the other party may be of another caste.

**Sardar Sant Singh** : Here in the Bill itself as it emerged from the Select Committee the words used are :

“ shall be deemed to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time belonged to a religion other than Hinduism.”



**Babu Baijnath Bajoria** : I want that amended.

**Sardar Sant Singh** : Here what the Honourable the Mover of the amendment means is that both parties at any time belonged to a religion other than Hinduism. That is to say, he wants this law to apply only to converts from different religions when both man and woman are converts,—not either. He does not say, either. That is exactly the difficulty that I am pointing out. If one of the parties is converted to Arya Samaj and he marries the other who was never converted, this provision would not apply if this amendment is carried. That will be most illogical and will defeat the purpose of this Bill itself. This clause is the substantive clause of the whole Bill. Therefore the only objection which I want my Honourable friend, the Mover of the Bill, to explain to the House is how far he is justified in introducing legislation in India which legislation is a sort of personal law for a particular community or a part of that community. This personal stage of legislation should now be given up in favour of the territorial stage, or the law should apply to the whole of India or to a major portion of India. That will be a stage of civilisation by which this piece of legislation is carrying us much to the older times than to the advanced stage where the law is made to apply equally to all inhabitants of different religions. I would rather like a piece of legislation to be enacted in this House which should be extended to all communities and to all persons in matters of heredity of marriage as well as in matters of succession. This is an objection which my Honourable friend .....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can complete his speech the next day. The  
5 P.M. House will now adjourn till tomorrow at 11 o'clock.

The Assembly then adjourned till eleven of the Clock on Wednesday, the 30th September, 1936.

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